

COMMONWEALTH OF MASSACHUSETTS

SUPREME JUDICIAL COURT

SUFFOLK COUNTY

DOCKET NO. DAR \_\_\_\_\_

APPEALS COURT

DOCKET NO. 2022-P-0892

COMMONWEALTH

V.

ANTHONY DEW

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APPLICATION FOR DIRECT APPELLATE REVIEW

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EDWARD B. GAFFNEY

ATTORNEY FOR THE  
DEFENDANT

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## INTRODUCTION AND REQUEST

From 2014 to 2017, Attorney Richard Doyle made over twenty racist and bigoted public postings on Facebook,<sup>1</sup> including the following:

- *Dear Muslims ... Kiss our big bacon balls* [over a picture of a very large pig's testicles]. App. 51.

- [In response to a video apparently depicting the death of a Muslim]: *Allah be praised. Go meet your 72 fat, smelly virgins, asshole*. App. 54.

- [After reporting a not-guilty verdict for a non-African American client]: *I can walk away from this one without feeling dirty. Doesn't happen much*. App. 65.

- [In response to a suggestion that he use his car to drive to the border so-called "illegals" (depicted in a photograph as persons of color standing in the desert)]: *I'd give 'em the Jimmy Hoffa treatment*. App. 58.

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<sup>1</sup> The defendant has not yet filed his brief and record appendix in the Appeals Court. To provide the court with access to documents it may find useful in ruling on the instant application, the defendant has included in the appendix hereto (cited as "App.") portions of the lower court record which are expected to be included in the record appendix. The Facebook posts are found at App. 51-74.

In February, 2016, the Committee for Public Counsel Services ("CPCS") appointed Attorney Doyle to represent the defendant in this case, an African American Muslim named Anthony Dew. And in June, 2016, while represented by Attorney Doyle, Mr. Dew pleaded guilty to offenses including sex trafficking, drug distribution, assault and battery, and assault and battery with a dangerous weapon.

Mr. Dew hereby requests direct appellate review of the denial<sup>2</sup> of his 2021 motion for new trial ("2021 MNT"), by which he sought leave to withdraw his guilty pleas because of Attorney Doyle's racism and bigotry.

As more fully discussed *infra*, direct appellate review gives this court the opportunity to address a question of first impression in Massachusetts: Whether the appointment of an attorney who is a racist and an anti-Muslim bigot to represent an indigent, African-American Muslim criminal defendant, and the attorney's subsequent representation of that defendant, violates the defendant's constitutional right to equal protection.

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<sup>2</sup> The lower court's ruling is found at App. 34.

Direct appellate review will also give this court the opportunity to determine the standard of review to apply to the dozens if not hundreds of potential future motions for new trial involving Attorney Doyle's representation. Because from 1991 through 2017, CPCS appointed Attorney Doyle to represent 6,759 indigent defendants.<sup>3</sup>

Finally, this case will provide the court an opportunity to further address the critically important issue of the ongoing toxic and destructive effects of racism in the criminal justice system.

#### STATEMENT OF PRIOR PROCEEDINGS

On March 11, 2015, the Suffolk County Grand Jury returned an indictment against Mr. Dew charging him with five counts of trafficking of a person for sexual servitude (charges 1-5), rape (charge 6), two counts of assault and battery with a dangerous weapon (charges 7-8), assault and battery (charge 9),

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<sup>3</sup> See App. 125. There is no evidence of what percentage of Attorney Doyle's clients were persons of color, and/or Muslim. But according to the Department of Correction, over 50% of the inmates in its custody in 2020 were persons of color. See <https://www.mass.gov/doc/prison-population-trends-2020/download>. Applying that percentage to the number of cases assigned to Attorney Doyle, over 3,000 of his clients were persons of color.

possession with intent to distribute a class A drug (charge 10), six counts of distribution of a class A drug (counts 11-16), and three counts of distribution of a class B drug (counts 17-19).

On June 1, 2016, pursuant to a plea agreement, Mr. Dew pleaded guilty to all of the charges except rape (charge 6), which was dismissed. He was then sentenced to concurrent terms of incarceration of 8 to 10 years on charges 1-4 and 10. He also received concurrent 7-year terms of probation on charges 5, 7-9, and 11-19, to be served on and after his incarceration.

On November 9, 2017, Mr. Dew, acting pro se, filed a motion for new trial, alleging that Attorney Doyle provided ineffective assistance of counsel. Mr. Dew was unaware of Attorney Doyle's Facebook posts at the time, and the motion did not raise claims related to Attorney Doyle's racism and bigotry. On April 3, 2018, the court denied the motion. That denial was upheld by the Appeals Court on September 23, 2019.

On September 20, 2021, the defendant filed the 2021 MNT. On May 6, 2022, the court held an

evidentiary hearing on the motion, and on August 29, 2022, the court (Sanders, J.) denied the motion.

#### SHORT STATEMENT OF FACTS

##### A. Facts Set Forth at the Plea Colloquy

At sometime in 2014 and/or early 2015, Mr. Dew attempted to recruit L.T.<sup>4</sup> to work for him as a prostitute, offering to give her housing and heroin in exchange for whatever money she earned from prostitution. He also hit her in the head, kicked her with a shod foot, and held a knife against her throat.

During 2014 and early 2015, Mr. Dew employed at least four other individuals as prostitutes. He provided them with cell phones, prepaid credit cards, and illegal drugs in exchange for all of the proceeds of their prostitution.

He also distributed heroin and/or crack cocaine to at least seven individuals.

In early 2015, Mr. Dew was in possession of a quantity of heroin, a digital scale, and other indicia of drug distribution.

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<sup>4</sup> The victim is referred to by initials only, pursuant to G.L. c. 265, s.24C.

## B. Facts Regarding Attorney Doyle's Racism and Bigotry

Mr. Dew is an indigent, African American Muslim.

On March 17, 2015, he was arraigned on the charges in this case, and that same day, Attorney June Jensen was appointed to represent him. On April 23, 2015, Attorney Jensen withdrew from the case, and Attorney Joseph Perullo was appointed to represent Mr. Dew.

During Attorney Perullo's representation, he planned to file a motion to suppress evidence based on a challenge to a search warrant, which he believed was viable. He also planned to file a motion to suppress identification. But before filing either motion, on January 13, 2016, Mr. Dew filed a pro se motion to dismiss Attorney Perullo and appoint new counsel. On February 19, 2016, the motion was allowed, and on that same day, Attorney Doyle was appointed to represent Mr. Dew.

At Mr. Dew's first meeting with Attorney Doyle at the Nashua Street jail, Mr. Dew was wearing a kufi, a brimless hat traditionally worn by Muslim men.<sup>5</sup> Attorney Doyle demanded that he take the kufi off, and

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<sup>5</sup> <https://www.yourdictionary.com/kufi>

told Mr. Dew “not to wear that shit in a courtroom.” App. 38. At a second meeting in the jail two weeks later, Mr. Dew again wore his kufi, and Attorney Doyle left without any conversation between them. *Id.*

After Mr. Dew’s plea in June, 2016, Attorney Doyle performed no further work on the case.

In 2017, CPCS became aware that from 2014 through 2017, Attorney Doyle had made over twenty racist and bigoted public postings on his Facebook page.<sup>6</sup> By the end of 2017, CPCS had determined that because of his racism and anti-Muslim bigotry, Attorney Doyle had an actual conflict of interests with Muslims, with undocumented people who lived in the United States, and with people who did not appear to be white. App. 122.<sup>7</sup> Subsequently, CPCS suspended Mr. Dew for a year

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<sup>6</sup> See App. 48.

<sup>7</sup> The record in this case includes a single page “Choice of Counsel” form, filed in *Commonwealth v. Badgett*, Suffolk Superior Court Docket No. 1784CR00263. App. 122. In that case, Attorney Doyle apparently had his client sign the form at the direction of CPCS. Mr. Dew has included in the Appendix to this pleading six documents (App. 75-121, 123-124) that relate to the CPCS investigation of Attorney Doyle’s Facebook posts that are not in the record of this case. See Note to Appendix (App. 1) for a full explanation.

from representing indigent criminal defendants in  
Massachusetts. App. 123.

Mr. Dew did not become aware of Attorney Doyle's  
racist and bigoted Facebook posts until 2021.

ISSUES OF LAW RAISED BY THE APPEAL  
AND WHETHER THEY WERE PRESERVED BELOW

I. Did the appointment of Attorney Doyle to represent Mr. Dew, and the representation of Mr. Dew by Attorney Doyle violate Mr. Dew's state and federal equal protection rights, and thereby entitle him to a new trial?

II. Did Attorney Doyle have an actual conflict of interests such that his representation in this case entitles Mr. Dew to a new trial without regard to prejudice?

These issues were preserved and argued below. Mr. Dew contends that the motion judge abused her discretion by finding that Attorney Doyle's racism and bigotry did not violate Mr. Dew's equal protection rights, and did not constitute an actual conflict of interests.

It should be noted that the motion judge also concluded that Mr. Dew did not receive ineffective assistance of counsel (independent of the conflict of interests claim), an issue that Mr. Dew did not raise.

## ARGUMENT

### **I. The Equal Protection Violation**

Central to our personal freedom and security is absolute equality before the law. *Goodridge v. Dept. Pub. Health*, 440 Mass. 309, 329 (2003). This includes equal access to the courts for all persons, and guarantees that “no greater burdens should be laid upon one than are laid upon another in the same condition.” *Opinion of the Justices*, 207 Mass. 601, 603 (1911) (citation omitted).

Because CPCS appointed a racist and religious bigot to represent him, Mr. Dew was denied that equality. The “greater burdens” he was forced to carry as a result of Attorney Doyle’s racism and Islamophobia are obvious. If Mr. Dew had been Christian, he would not have suffered the personal indignity of having his lawyer walk out of a meeting and call a piece of his clothing “that shit” because it was traditionally worn by people of his faith. If Mr Dew had been white, his lawyer’s public, smug celebration of African American Colin Kaepernick’s professional fall from grace for protesting police killing of unarmed people of color would not have been

a direct insult to his race.<sup>8</sup> And if Mr. Dew had not been a person of color or Muslim, he would not have been represented by an attorney who purportedly bore him "undivided loyalty,"<sup>9</sup> while simultaneously publicly perpetuating vile stereotypes about and threatening vigilante violence against people like him.

Indeed, the violations of Mr. Dew's right to equal protection in this case are glaringly apparent from any fair reading of Attorney Doyle's horrifying Facebook posts. From the appallingly casual allusion to the murder (by him) of persons of color, to his dehumanizing descriptions of others (e.g. undocumented aliens as "illegals," Muslims as "goat fuckers," his clients as "filth"), it is abundantly clear that in

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<sup>8</sup> Mr. Kaepernick lost his job as an NFL starting quarterback because of his advocacy around racial equality. See [https://en.wikipedia.org/wiki/Colin\\_Kaepernick](https://en.wikipedia.org/wiki/Colin_Kaepernick). It should not be overlooked that the manner in which Attorney Doyle mocked Mr. Kaepernick's professional misfortune was by describing him as a "waterboy." By doing so, Attorney Doyle's post not only highlighted the dramatic change in Mr. Kaepernick's status (by depicting him not as a national sports star but instead as a subservient member of a football team's support staff), but also chose to describe him using the racist slur "boy." See *Ash v. Tyson Foods, Inc.*, 664 F.3d 883, 895-898 (11th Cir. 2011).

<sup>9</sup> See *Commonwealth v. Goldman*, 395 Mass. 495, 505 (1985)

Attorney Doyle's view, non-white and non-Christian people -- including Mr. Dew -- were, at best, persons who deserved his contempt and ridicule, and at worst, less than human. It would therefore be profoundly naive to believe that Attorney Doyle's appointment and representation did not violate Mr. Dew's right to equality under the law.

A. State Action

The lower court rejected Mr. Dew's equal protection claim by concluding that since the court in 2016 did not know Attorney Doyle was a racist, the discrimination suffered by Mr. Dew was not the result of state action. See *Shelley v. Kraemer*, 334 U.S. 1, 13 (1948). This analysis is superficial, and wrong.

The fact that the court was previously unaware of Attorney Doyle's loathsome ideology has no bearing on whether state action caused the discrimination at the core of this claim. CPCS, not the court through any particular judge, was the state entity that appointed Attorney Doyle to represent Mr. Dew. *Carrasquillo v. Hampden County Dist. Ct.*, 484 Mass. 367, 384 (2020), citing *Deputy Chief Counsel v. Acting First Justice*, 477 Mass. 178, 179 (2017).

Further, pursuant to its statutory mandate, CPCS was responsible for “establishing standards and guidelines” for appointed counsel, and for monitoring and evaluating compliance with such standards. G.L. c. 211D, ss. 4, 9, and 10. And equal protection considerations apply to the appointment of counsel to indigent defendants. *U.S. ex rel. O’Brien v. Maroney*, 423 F. 2d 865, 869 (3rd Cir. 1970), cited with approval in *Commonwealth v. Gauthier*, 361 Mass. 394, 399 (1972). Accordingly, it was CPCS’s responsibility to appoint an attorney to this case who did not violate the defendant’s constitutional right to be free from racism and anti-Muslim bigotry. Because although “[p]rivate biases [are] outside the reach of the law, . . . the law cannot, directly or indirectly, give them effect.” *Palmore v. Sidoti*, 466 U.S. 429, 433 (1984). Yet CPCS’s appointment of Attorney Doyle to represent Mr. Dew did just that.

#### B. The Remedy

Without citation to any authority, the lower court determined that once it became aware of Attorney Doyle’s racism through the 2021 MNT, its duty to act was limited to determining whether Mr. Dew received

ineffective assistance of counsel. App. 45. This is incorrect. Because Mr. Dew was denied equal protection, the court's responsibility was to determine whether the constitutional violation was structural error, or whether it was harmless beyond a reasonable doubt. See *Arizona v. Fulminante*, 488 U.S. 279, 306-312 (1991).

### C. Structural Error

Unlike errors that take place in the trial process itself, structural errors are defects in the framework of a criminal prosecution. *Commonwealth v. Francis*, 485 Mass. 86, 100 (2020). They are constitutional flaws of the first magnitude which deprive defendants of basic protections, defy harmless error analysis, and require reversal without regard to prejudice, even when there is overwhelming evidence of a defendant's guilt. *Id.* The equal protection violation in this case meets all of these criteria.

First, Attorney Doyle's presence in this case affected the entire framework within which the plea negotiations and the plea took place, because "[o]f all the rights that an accused person has, the right to be represented by counsel is by far the most

pervasive, for it affects his ability to assert any other rights he may have." *U.S. v. Cronin*, 466 U.S. 648, 654 (1984).

Second, there can be no principled argument as to whether the right at issue is of the highest importance. *The very first article* in the Massachusetts Declaration of Rights includes the following language: "All people are born free and equal ... Equality under the law shall not be denied or abridged because of sex, race, color, creed or national origin." The importance of equal protection is further confirmed by the multitude of cases in which structural error was found where racism – or even the *possibility* of racism – was present in a criminal proceeding. See, e.g. *Vasquez v. Hillery*, 474 U.S. 254 (1986) (racial discrimination in grand jury selection); *Commonwealth v. Long*, 419 Mass. 798, 799–805 (1995) (racial bias of juror); *Batson v. Kentucky*, 476 U.S. 79 (1986) (racial bias in exercising peremptory challenges); *Commonwealth v. Soares*, 377 Mass. 461 (1979) (same).

Indeed, Massachusetts courts have repeatedly confirmed that racial prejudice is so antithetical to

the integrity of the criminal justice system, that even the *possibility* that a prosecutor *might* have used racial bias as a reason for a peremptory challenge, without inquiry by a judge into that possibility, constitutes a structural error. See, e.g., *Commonwealth v. Ortega*, 480 Mass. 603, 607-608 (2018).

With that understanding, any doubt as to whether the error in this case was structural simply vanishes. There wasn't any question as to whether Attorney Doyle *might* have been racially and religiously prejudiced. We *know* of his bias and bigotry as a result of his repeated and public declarations of such hatred, against members of two groups of which Mr. Dew was a member -- African-Americans and Muslims. And if a jury-selection error which merely increases the possibility that racial prejudice might infect criminal proceedings is a structural error, then clearly the error in this case is structural too. Because here, Attorney Doyle's representation didn't merely increase the possibility that racial prejudice would infect the case -- it guaranteed that racial prejudice would infect the case.

#### D. Harmless Beyond a Reasonable Doubt

Even if the error in this case had not been structural, the Commonwealth cannot demonstrate that the error was harmless beyond a reasonable doubt. See *Commonwealth v. Watt*, 484 Mass. 742, 750-751 (2020).

The Facebook posts, and the testimony from Attorney Perullo make clear that not only was Attorney Doyle racist, but he was far from diligent in his efforts on Mr. Dew's behalf. Most significantly, he failed to file consequential pre-trial motions identified by Attorney Perullo as viable.

These failures cannot be seen as harmless beyond a reasonable doubt. First, Attorney Perullo, an experienced criminal defense lawyer, opined that the motions to suppress were viable, i.e. not frivolous. As such, it cannot be reasonably argued that the failure to file such motions was harmless "to the highest degree of certainty possible in human affairs." *Commonwealth v. Russell*, 470 Mass. 464, 477 (2015). Stated simply, Mr. Dew might have won the motions to suppress.

And second, the failure of Attorney Doyle to file the motions of course meant that there was no

evidentiary hearing on the motions. Had there been such hearings, the motion judge would have been responsible for making determinations as to the weight and credibility of the evidence adduced at such hearings. *Commonwealth v. Isaiah I.*, 448 Mass. 334, 337 (2007). Without such hearings, it is impossible to know whether a judge would have credited the Commonwealth's evidence to support its position. And of course, if that cannot be known, it certainly cannot be known beyond a reasonable doubt that the judge would have denied the motions.

## **II. The Conflict of Interests**

A criminal defendant's constitutional right to counsel "means more than just the opportunity to be physically accompanied by a person privileged to practice law." *Frazer v. U.S.*, 18 F.3d 778, 782 (9th Cir. 1994). It means representation by a lawyer without a conflict of interests. *Commonwealth v. Davis*, 376 Mass. 777, 780-781 (1978). If an actual conflict of interests exists, the defendant is entitled to a new trial without regard to prejudice. *Commonwealth v. Hodge*, 386 Mass. 165 (1982).

In the instant matter, Mr. Dew was denied the right to be "represented by counsel who [bore] him undivided loyalty" when CPCS appointed Attorney Doyle. *Commonwealth v. Goldman*, 395 Mass. 495, 505 (1985). There was a "significant risk that the representation of [Mr. Dew was] materially limited by ... a personal interest of [Attorney Doyle]." Massachusetts Rules of Professional Conduct 1.7(a)(2). Indeed, Attorney Doyle's actual conflict of interests with Muslims, people who did not appear to be white, and undocumented immigrants was the reason CPCS suspended him. See App 123. See also Note to Appendix, App. 1.

As repeatedly and conclusively demonstrated by the years-long stream of invective leveled by Attorney Doyle at Muslims and persons of color, he was far from "untrammelled and unimpaired" in his representation of Mr. Dew. Instead, he was dramatically and egregiously limited by his hatred of people who were of the same race and religion as Mr. Dew, and by his personal interest in disparaging and subjugating them. As such, Attorney Doyle had a fatal conflict of interests in this case. See *Ellis v. Harrison*, *supra*; *Frazer v. U.S.*, 18 F.3d 778 (9th Cir. 1994).

STATEMENT OF REASONS WHY DIRECT APPELLATE REVIEW IS  
APPROPRIATE

Direct appellate review is particularly appropriate for this matter. Not only is it a case of first impression, but the court's decision on the issues raised herein will directly affect several (and likely many) cases which have raised and which will raise similar, if not identical claims. App. 125.

And finally, this case gives the court an opportunity to present an unmistakable demonstration of its ongoing commitment to ridding racism and its vile and destructive legacy from the criminal justice system in the Commonwealth.

Because long before the 2014 death of Michael Brown in Ferguson, Missouri touched off the Black Lives Matter movement, the U.S. Supreme Court and this court had recognized that the violent, painful, and toxic legacy of racism was far from extinguished in our country, or in our judicial system. See, e.g., *Vasquez v. Hillery*, *supra*, and cases cited at 261; *Commonwealth v. Long*, 419 Mass. 798 (1995); *Commonwealth v. Lora*, 425 Mass. 451, 444-445 (2008);

and *Commonwealth v. McCowen*, 458 Mass. 461, 498–503 (2010) (Ireland, J., concurring).

And after the tragically long list of unarmed African-American victims of police killings grew to include people like Tamir Rice, Eric Garner, Breonna Taylor, and then George Floyd, this court issued a public letter to the judiciary and the bar of Massachusetts,<sup>10</sup> explicitly acknowledging that "too often, our criminal justice system fails to treat African-Americans the same as white Americans." This case gives the court an ideal forum to explain how and why the injection of racist venom into one of our society's vital organs -- the criminal justice system -- is a structural error. Such a finding will demonstrate the court's unwavering commitment to eradicating that poison, through the clear and conclusive remedy of a new trial, without regard to prejudice. Because "[t]he risk even of the appearance that racial prejudice might have infected the judicial process ... requires strong medicine." *Commonwealth v. Hart*, 93 Mass. Act. Ct. 565, 569 (2018).

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<sup>10</sup> See App. 126.

Respectfully Submitted

Anthony Dew  
By his attorney:

/s/ Edward B. Gaffney

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Edward B. Gaffney BBO #563719  
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Date Signed: September 26, 2022  
Date Refiled: September 29, 2022

CERTIFICATE OF COMPLIANCE PURSUANT TO RULE 16(K) OF THE  
MASSACHUSETTS RULES OF APPELLATE PROCEDURE

I, Edward B. Gaffney, Esq., hereby certify that the foregoing application for direct appellate review complies with the rules of the court that pertain to the filing of such applications, including, but not limited to:

Mass. R. A. P. 20(a).

Compliance with the applicable length limit of Rule 11 was achieved by filing an application for direct appellate review using Courier Font (12 point, 10 characters per inch), generating an argument section comprised of 10 pages of text.

/s/ Edward B. Gaffney

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COMMONWEALTH OF MASSACHUSETTS

SUPREME JUDICIAL COURT

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DOCKET NO. DAR \_\_\_\_\_

APPEALS COURT

DOCKET NO. 2022-P-0892

COMMONWEALTH

V.

ANTHONY DEW

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CERTIFICATE OF SERVICE

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The undersigned certifies that on September 26, 2022,  
he served a copy of Defendant's Application for Direct  
Appellate Review on:

Paul Linn, ADA and  
Cailin Campbell, ADA

by email to Paul.linn@state.ma.us and  
cailin.campbell@state.ma.us

Respectfully Submitted,

/s/ Edward B. Gaffney

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\* See Note to Appendix, App. 1.

NOTE TO APPENDIX REGARDING  
DOCUMENTS NOT IN THE RECORD BELOW

The defendant has included in the appendix to this case the following six documents which were not included in the record below:

CPCS Complaint C6872

Investigator Findings on Complaint C6872

CPCS Complaint C6872 with Findings

CPCS Suspension Letter Dated December 22, 2017

Enclosure to CPCS Letter  
dated December 20, 2017

CPCS Suspension Letter Dated February 22, 2017

These documents relate to the 2017 CPCS investigation into Attorney Doyle's Facebook posts. They were produced by CPCS in response to a post-conviction discovery motion in *Commonwealth v. Richardson* (Middlesex Superior Court Docket 1481CR00101), another case in which an African American Muslim defendant claimed that Attorney Doyle's appointment and representation violated his equal protection rights. The documents were included in the appendix to this case because it is overwhelmingly likely that the decision in this case will affect others in which defendants raise post-conviction claims based on Attorney Doyle's Facebook posts. It is also overwhelmingly likely that these documents will be a part of the record of those cases.

Please also note that when the defendant files his brief in the Appeals Court, he will be simultaneously filing a motion to expand the record to include these documents.

Of course, if the court prefers that the appendix to this case not include the documents, the defendant will file a revised application for direct appellate review without the documents, and without reference thereto.

# 1584CR10164 Commonwealth vs. Dew, Anthony James

- Case Type:
- Indictment
- Case Status:
- Open
- File Date
- 03/11/2015
- DCM Track:
- C - Most Complex
- Initiating Action:
- TRAFFICKING OF PERSON FOR SEXUAL SERVITUDE c265 §50(a)
- Status Date:
- 03/11/2015
- Case Judge:
- Giles, Hon. Linda E
- Next Event:
- 

[All Information](#) [Party](#) [Charge](#) [Event](#) [Tickler](#) [Docket](#) [Disposition](#)

## Party Information

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[Alias](#)

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### Party Charge Information

- **Dew, Anthony James**

- - Defendant

- **Charge # 1:**

- **265/50/A-0 - Felony**      TRAFFICKING OF PERSON FOR SEXUAL SERVITUDE c265 §50(a)

- Original Charge
- 265/50/A-0 TRAFFICKING OF PERSON FOR SEXUAL SERVITUDE c265 §50(a) (Felony)
- Indicted Charge
- 
- 

- Amended Charge
- 

**Charge Disposition**

Disposition Date

Disposition

06/01/2016

Guilty Plea - Agreed Upon

- **Dew, Anthony James**

- - Defendant

- **Charge # 2:**

- **265/50/A-0 - Felony**      TRAFFICKING OF PERSON FOR SEXUAL SERVITUDE c265 §50(a)

- Original Charge
- 265/50/A-0 TRAFFICKING OF PERSON FOR SEXUAL SERVITUDE c265 §50(a) (Felony)
- Indicted Charge
- 
- 

- Amended Charge
- 

**Charge Disposition**

Disposition Date

Disposition

06/01/2016

Guilty Plea - Agreed Upon

- **Dew, Anthony James**

- - Defendant

- **Charge # 3:**

- **265/50/A-0 - Felony**      TRAFFICKING OF PERSON FOR SEXUAL SERVITUDE c265 §50(a)

- Original Charge
- 265/50/A-0 TRAFFICKING OF PERSON FOR SEXUAL SERVITUDE c265 §50(a) (Felony)
- Indicted Charge
- 
- 

- Amended Charge
- 

**Charge Disposition**

Disposition Date

Disposition

06/01/2016

Guilty Plea - Agreed Upon

- **Dew, Anthony James**

- - Defendant

- **Charge # 4:**

- **265/50/A-0 - Felony**      TRAFFICKING OF PERSON FOR SEXUAL SERVITUDE c265 §50(a)

- Original Charge

- 265/50/A-0 TRAFFICKING OF PERSON FOR SEXUAL SERVITUDE c265

- §50(a) (Felony)

- Indicted Charge

- 

- Amended Charge

- 

**Charge Disposition**

Disposition Date

Disposition

06/01/2016

Guilty Plea - Agreed Upon

- **Dew, Anthony James**

- - Defendant

- **Charge # 5:**

- **265/50/A-0 - Felony**      TRAFFICKING OF PERSON FOR SEXUAL SERVITUDE c265 §50(a)

- Original Charge

- 265/50/A-0 TRAFFICKING OF PERSON FOR SEXUAL SERVITUDE c265

- §50(a) (Felony)

- Indicted Charge

- 

- Amended Charge

- 

**Charge Disposition**

Disposition Date

Disposition

06/01/2016

Guilty Plea - Agreed Upon

[Load Party Charges 6 through 10](#) [Load All 19 Party Charges](#)
**Events**

| <a href="#">Date</a>   | <a href="#">Session</a> | <a href="#">Location</a> | <a href="#">Type</a>                  | <a href="#">Event Judge</a> | <a href="#">Result</a> |
|------------------------|-------------------------|--------------------------|---------------------------------------|-----------------------------|------------------------|
| 03/17/2015<br>09:30 AM | Magistrate's<br>Session |                          | Arraignment                           |                             | Held as Scheduled      |
| 03/26/2015<br>09:00 AM | Criminal 1              |                          | Status Review                         |                             | Rescheduled            |
| 03/30/2015<br>09:00 AM | Criminal 1              |                          | Status Review                         |                             | Held as Scheduled      |
| 05/06/2015<br>09:30 AM | Magistrate's<br>Session |                          | Pre-Trial Conference                  |                             | Held as Scheduled      |
| 05/28/2015<br>09:00 AM | Criminal 1              |                          | Hearing                               |                             | Held as Scheduled      |
| 06/24/2015<br>09:00 AM | Criminal 1              |                          | Evidentiary Hearing to<br>Dismiss     |                             | Rescheduled            |
| 07/02/2015<br>09:00 AM | Criminal 1              |                          | Non-Evidentiary Hearing to<br>Dismiss |                             | Held as Scheduled      |
| 07/08/2015<br>09:00 AM | Criminal 1              |                          | Hearing                               |                             | Held as Scheduled      |
| 08/12/2015<br>09:30 AM | Magistrate's<br>Session |                          | Status Review                         |                             | Held as Scheduled      |
| 08/26/2015<br>09:30 AM | Magistrate's<br>Session |                          | Hearing                               |                             | Held as Scheduled      |

|                        |            |                         |                                    |                          |                              |
|------------------------|------------|-------------------------|------------------------------------|--------------------------|------------------------------|
| 10/15/2015<br>09:00 AM | Criminal 9 |                         | Evidentiary Hearing on Suppression |                          | Held as Scheduled            |
| 11/10/2015<br>02:00 PM | Criminal 1 | BOS-7th FL, CR 704 (SC) | Bail Review via Video Conference   |                          | Held as Scheduled            |
| 11/19/2015<br>09:30 AM | Criminal 1 | BOS-7th FL, CR 704 (SC) | Motion Hearing                     | Salinger, Hon. Kenneth W | Not Held                     |
| 12/08/2015<br>09:00 AM | Criminal 1 |                         | Pre-Trial Hearing                  |                          | Canceled                     |
| 12/30/2015<br>09:00 AM | Criminal 1 | BOS-7th FL, CR 704 (SC) | Hearing RE: Discovery Motion(s)    |                          | Held as Scheduled            |
| 12/30/2015<br>12:50 PM | Criminal 1 | BOS-7th FL, CR 704 (SC) | Hearing for Protective Order       | Krupp, Hon. Peter B      | Held as Scheduled            |
| 02/19/2016<br>09:00 AM | Criminal 9 | BOS-7th FL, CR 713 (SC) | Evidentiary Hearing to Dismiss     |                          | Held as Scheduled            |
| 03/03/2016<br>02:00 PM | Criminal 5 |                         | Final Pre-Trial Conference         |                          | Rescheduled                  |
| 03/15/2016<br>09:00 AM | Criminal 5 |                         | Jury Trial                         |                          | Rescheduled                  |
| 03/30/2016<br>09:00 AM | Criminal 1 | BOS-7th FL, CR 704 (SC) | Conference to Review Status        | Roach, Christine M       | Held as Scheduled            |
| 04/21/2016<br>09:30 AM | Criminal 1 | BOS-7th FL, CR 704 (SC) | Conference to Review Status        | Krupp, Hon. Peter B      | Held as Scheduled            |
| 05/05/2016<br>02:00 PM | Criminal 5 | BOS-8th FL, CR 817 (SC) | Final Pre-Trial Conference         |                          | Held as Scheduled            |
| 05/19/2016<br>02:00 PM | Criminal 5 | BOS-8th FL, CR 817 (SC) | Final Pre-Trial Conference         |                          | Held as Scheduled            |
| 05/23/2016<br>09:00 AM | Criminal 5 | BOS-8th FL, CR 817 (SC) | Jury Trial                         |                          | Rescheduled                  |
| 05/31/2016<br>09:00 AM | Criminal 5 | BOS-8th FL, CR 817 (SC) | Jury Trial                         |                          | Canceled                     |
| 05/31/2016<br>09:00 AM | Criminal 7 | BOS-9th FL, CR 907 (SC) | Jury Trial                         |                          | Held as Scheduled            |
| 06/01/2016<br>09:00 AM | Criminal 7 | BOS-9th FL, CR 907 (SC) | Jury Trial                         |                          | Not Held as Scheduled - Plea |
| 06/02/2016<br>09:00 AM | Criminal 7 | BOS-9th FL, CR 907 (SC) | Jury Trial                         |                          | Canceled                     |
| 01/11/2022<br>11:00 AM | Criminal 2 |                         | Conference to Review Status        | Sanders, Hon. Janet L    | Held as Scheduled            |
| 02/02/2022<br>02:30 PM | Criminal 2 |                         | Motion Hearing                     | Sanders, Hon. Janet L    | Held as Scheduled            |
| 02/04/2022<br>02:00 PM | Criminal 2 |                         | Motion Hearing                     | Sanders, Hon. Janet L    | Rescheduled                  |
| 03/18/2022<br>02:00 PM | Criminal 2 |                         | Motion Hearing                     | Sanders, Hon. Janet L    | Canceled                     |
| 05/06/2022<br>02:00 PM | Criminal 2 |                         | Hearing on Motion for New Trial    | Sanders, Hon. Janet L    | Held - Under advisement      |

### Ticklers

| <u>Tickler</u> | <u>Start Date</u> | <u>Due Date</u> | <u>Days Due</u> | <u>Completed Date</u> |
|----------------|-------------------|-----------------|-----------------|-----------------------|
|----------------|-------------------|-----------------|-----------------|-----------------------|

|                            |            |            |     |            |
|----------------------------|------------|------------|-----|------------|
| Pre-Trial Hearing          | 03/17/2015 | 03/17/2015 | 0   | 06/01/2016 |
| Final Pre-Trial Conference | 03/17/2015 | 02/26/2016 | 346 | 06/01/2016 |
| Case Disposition           | 03/17/2015 | 03/11/2016 | 360 | 06/01/2016 |
| Under Advisement           | 12/30/2015 | 01/29/2016 | 30  | 07/31/2018 |
| Under Advisement           | 05/06/2022 | 06/05/2022 | 30  | 08/29/2022 |

**Docket Information**

| <u><a href="#">Docket Date</a></u> | <u><a href="#">Docket Text</a></u>   | <u><a href="#">File Ref Nbr.</a></u> | <u><a href="#">Image Avail.</a></u> |
|------------------------------------|--|--------------------------------------|-------------------------------------|
| 03/11/2015                         | Indictment returned  | 1                                    | <a href="#">Image</a>               |
| 03/11/2015                         | MOTION by Commonwealth for arrest warrant to issue; filed & allowed. Lauriat, J.   | 2                                    |                                     |
| 03/11/2015                         | Warrant on indictment issued   |                                      |                                     |
| 03/11/2015                         | Warrant was entered onto the Warrant Management System 3/11/2015   |                                      |                                     |
| 03/17/2015                         | Defendant brought into court. Warrant ordered recalled.  |                                      |                                     |
| 03/17/2015                         | Warrant canceled on the Warrant Management System 3/17/2015  |                                      |                                     |
| 03/17/2015                         | Appointment of Counsel June E Jensen, pursuant to Rule 53  |                                      |                                     |
| 03/17/2015                         | Court inquires of Commonwealth if abuse, as defined in G.L. c.209A, s1, is alleged to have occurred immediately prior to or in connection with the charged offense(s). |                                      |                                     |
| 03/17/2015                         | Court finds abuse is alleged in connection with the charged offense(s). (G.L. c.276 s56A). Written findings filed UNDER SEAL with statement of support.                | 3                                    |                                     |
| 03/17/2015                         | Deft arraigned before Court.   |                                      |                                     |
| 03/17/2015                         | Deft waives reading of indictments   |                                      |                                     |
| 03/17/2015                         | RE Offense 1:Plea of not guilty  |                                      |                                     |
| 03/17/2015                         | RE Offense 2:Plea of not guilty  |                                      |                                     |
| 03/17/2015                         | RE Offense 3:Plea of not guilty  |                                      |                                     |
| 03/17/2015                         | RE Offense 4:Plea of not guilty  |                                      |                                     |
| 03/17/2015                         | RE Offense 5:Plea of not guilty  |                                      |                                     |
| 03/17/2015                         | RE Offense 6:Plea of not guilty  |                                      |                                     |
| 03/17/2015                         | RE Offense 7:Plea of not guilty  |                                      |                                     |
| 03/17/2015                         | RE Offense 8:Plea of not guilty  |                                      |                                     |
| 03/17/2015                         | RE Offense 9:Plea of not guilty  |                                      |                                     |
| 03/17/2015                         | RE Offense 10:Plea of not guilty   |                                      |                                     |
| 03/17/2015                         | RE Offense 11:Plea of not guilty   |                                      |                                     |
| 03/17/2015                         | RE Offense 12:Plea of not guilty   |                                      |                                     |
| 03/17/2015                         | RE Offense 13:Plea of not guilty   |                                      |                                     |
| 03/17/2015                         | RE Offense 14:Plea of not guilty   |                                      |                                     |
| 03/17/2015                         | RE Offense 15:Plea of not guilty   |                                      |                                     |
| 03/17/2015                         | RE Offense 16:Plea of not guilty   |                                      |                                     |

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| 03/17/2015 | RE Offense 17:Plea of not guilty  |    |
| 03/17/2015 | RE Offense 18:Plea of not guilty  |    |
| 03/17/2015 | RE Offense 19:Plea of not guilty  |    |
| 03/17/2015 | Bail set: \$1,000,000.00 with surety or in the alternative \$100,000.00 cash without prejudice. Bail Warning Read. Mittimus Issued. COB: 1. Stay away form all victims and witnesses. 2. GPS monitoring.  |    |
| 03/17/2015 | Commonwealth files Statement of the Case.   | 4  |
| 03/17/2015 | Commonwealth files First Statement of Discovery.  | 5  |
| 03/17/2015 | Commonwealth files Second Statement of Discovery.   | 6  |
| 03/17/2015 | Commonwealth files Motion for Protective Order.   | 7  |
| 03/17/2015 | MOTION (P#7) allowed over objection until hearing on 3-26-15.   |    |
| 03/17/2015 | Assigned to track "C" see scheduling order  |    |
| 03/17/2015 | Tracking deadlines Active since return date   |    |
| 03/17/2015 | Continued to 3/26/2015 for hearing Re: Protective Order and setting of track by agreement. Kaczmarek, MAG - E. Lemire, ADA - J. Jensen, Atty - JAVS   |    |
| 03/30/2015 | Defendant not in Court. Hearing re: Motions.  |    |
| 03/30/2015 | Commonwealth files Motion for a Protective Order and Affidavit.   | 8  |
| 03/30/2015 | MOTION (P#8) allowed without objection as to witnesses names (Peter M. Lauriat, Justice).   |    |
| 03/30/2015 | Defendant files Motion to Lift Restricted Discovery.  | 9  |
| 03/30/2015 | MOTION (P#9) denied as to witnesses names (Peter M. Lauriat, Justice).  |    |
| 03/30/2015 | Defendant files Motion for CORI's know Witnesses.   | 10 |
| 03/30/2015 | MOTION (P#10) allowed (Peter M. Lauriat, Justice).  |    |
| 03/30/2015 | Continued by agreement to 05/06/2015 PTC in the Magistrate Session (Ctrm 705). 12/08/2015 PTH in the 1st Criminal Session (Ctrm 704). 03/03/2016 FPTH and 03/15/2016 Trial in the V Criminal Session (Ctrm 817). Lauriat, J. - E. Keeley, ADA. - J. Jansen, Atty. - JAVS. |    |
| 04/23/2015 | On video at Nashua Street Jail  |    |
| 04/23/2015 | After hearing Deft's oral motion for reduction of bail, allowed   |    |
| 04/23/2015 | Court revoked prior order of bail   |    |
| 04/23/2015 | Bail set: \$500,000 with surety or \$50,000 Cash. Bail warning read. Mittimus issued  |    |
| 04/23/2015 | Bail: Conditions of Release 1) GPS within 24 hours of release 2) Stay away, no contact direct or indirect with alleged victim   |    |
| 04/23/2015 | Attorney, June E Jensen's allowed to withdraw as counsel of record for Anthony Dew  |    |
| 04/23/2015 | Appointment of Counsel Joseph M Perullo, pursuant to Rule 53. Fee waived by court. Ball, J. - J. Jensen, Atty. - J. Perullo, Atty. - JAVS.  |    |
| 05/06/2015 | Defendant not present.  |    |
| 05/06/2015 | Pre-trial conference report filed   | 11 |
| 05/06/2015 | Commonwealth files: Fourth statement of discovery.  | 12 |
| 05/06/2015 | Deft files: Motion for speedy trial   | 13 |
| 05/06/2015 | Continued to 5/28/2015 by agreement for hearing re: speedy trial in (Ctrm.704 - JAIL LIST). Kaczmarek, MAG. - W. Keeley, ADA - J. Perullo, Attorney - JAVS  |    |

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| 05/28/2015 | Defendant brought into court. Hearing re mtn #13(Speedy trial)  |    |
| 05/28/2015 | MOTION (P#13) denied without prejudice  |    |
| 05/28/2015 | Deft files Motion to dismiss and affidavit  | 14 |
| 05/28/2015 | Appearance of Commonwealth's Atty: Elizabeth K Keeley   |    |
| 05/28/2015 | Commonwealth files Fifth statement of discovery   | 15 |
| 05/28/2015 | Commonwealth files Bill of particulars related to indictments 10 thru 19  | 16 |
| 05/28/2015 | Continued to 6/24/2015 by agreement re motion to dismiss. Locke, RAJ. - E. Keeley, ADA. - J. Perulo, Atty. - JAVS   |    |
| 06/24/2015 | Defendant not present   |    |
| 06/24/2015 | Deft files Amended motion to dismiss with Memorandum of law   | 17 |
| 06/24/2015 | Continued to 7/2/2015 at request of Comm re motion to dismiss. Jail list. Locke, RAJ. - C. Ham, ADA. - J. Perullo, Atty. - JAVS                                 |    |
| 07/02/2015 | Defendant brought into court. Hearing re Motion to Dismiss P#17   |    |
| 07/02/2015 | Hearing on (P#17) held, matter taken under advisement   |    |
| 07/02/2015 | Commonwealth files Sixth statement of discovery   | 18 |
| 07/02/2015 | Commonwealth files Motion for production of deft's GPS electronic monitoring record with affidavit  | 19 |
| 07/02/2015 | Deft files Motion for information related to this Government's warrantless pre-trial GPS tracking with affidavit  | 20 |
| 07/02/2015 | Deft files Motion for funds for investigator with affidavit   | 21 |
| 07/02/2015 | As to P#14 no action taken see endorsement  |    |
| 07/02/2015 | Continued to 7/8/2015 by agreement re motions. Jail list. Locke, RAJ. - C. Ham, ADA. - J. Perullo, Atty. - JAVS.  |    |
| 07/03/2015 | MOTION (P#17) denied as endorsed. Locke, J. (ADA Ham and Atty Perullo notified with copy)   |    |
| 07/08/2015 | Defendant not present   |    |
| 07/08/2015 | MOTION (P#20) allowed   |    |
| 07/08/2015 | Order of Roach, J filed   | 22 |
| 07/08/2015 | Commonwealth files 7th statement of discovery   | 23 |
| 07/08/2015 | Continued to 8/12/2015 by agreement re filing of motions(CM). Roach, J. - C. Ham, ADA. - J. Perullo, Atty. - JAVS.  |    |
| 07/22/2015 | Other records from Office of the Commissioner of Probation received   |    |
| 08/12/2015 | Defendant not in Court, hearing continued by agreement until 8/26/2015 re: Filing of Motions (Ctrm 705). Wilson-MAG. - C. Ham, ADA. - J. Perullo, Atty. - JAVS. |    |
| 08/26/2015 | Defendant not in Court  |    |
| 08/26/2015 | Commonwealth files Eighth Statement of discovery  | 24 |
| 08/26/2015 | Deft files Motion to Suppress   | 25 |
| 08/26/2015 | Case continued by agreement to 10/15/15 for a hearing Re: Motion to Suppress (CTRM 713). Wilson, MAG., C. Ham, ADA., J. Perullo, Atty., JAVS (ERD)              |    |
| 09/15/2015 | Defendant not present   |    |
| 09/15/2015 | Deft files Motion to allow Probation officials to testify in court at deft's trial pursuant to trial court Rule IX.   | 26 |
| 09/15/2015 | MOTION (P#26) allowed   |    |

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| 09/15/2015 | Probation: request for summons I filed.   | 27 |
| 09/15/2015 | MOTION (P#27) allowed. Summons to Issue.  |    |
| 09/15/2015 | Probation: request for summons II filed.  | 28 |
| 09/15/2015 | MOTION (P#28) allowed. Summons to Issue. Kaczmarek< MAG - J. Perullo, Atty - JAVS   |    |
| 09/16/2015 | Summons Issued for witnesses to appear before the Court on October 15, 2015.  |    |
| 10/15/2015 | Event Result:<br>The following event: Evidentiary Hearing on Suppression scheduled for 10/15/2015 09:00 AM has been resulted as follows:<br>Result: Held as Scheduled After hearing Motion to Suppress P#25 taken under advisement. Continued by agreement to 11/19/15 for Hearing re: Discovery. Salinger, J. - C. Hyo-Kyung, ADA - Joseph Perullo, Attorney - Javs. |    |
| 10/15/2015 | Anthony J Dew's Memorandum in support of the Defendant's Motion to Suppress Evidence, filed.  | 29 |
| 10/15/2015 | Defendant 's Motion for Information Related to Affidavit and Confidential Informant Reliability.  | 30 |
| 10/15/2015 | Commonwealth's Memorandum in opposition to the Defendant's Motion to Suppress Evidence of GPS Records, filed.   | 31 |
| 10/19/2015 | Defendant 's Notice of Defendant's Intention to Use Past Acts of Alleged Vivtim & Witnesses at Trial.   | 32 |
| 10/21/2015 | Supplemental Memorandum of Law in Support of the Defendant's Motion to Suppress Evidence.   | 33 |
| 10/27/2015 | Findings of Fact and Rulings of Law:<br><br>And Order Denying Defendant's Motion to Suppress Evidence, filed. Salinger, J. Copies mailed to both parties 10/27/15.  | 34 |
| 10/27/2015 | The following form was generated:<br>A Clerk's Notice was generated and sent to:<br>Attorney: Joseph M. Perullo, Esq.<br>Attorney: Catherine Hyo-Kyung Ham, Esq.  |    |
| 10/29/2015 | Defendant 's Notice of Intention to Use Past Acts of Alleged Voctim & Witnesses at Trial  | 35 |
| 11/06/2015 | Defendant 's Notice of Appeal, filed  | 36 |
| 11/10/2015 | Event Result:<br>The following event: Bail Review via Video Conference scheduled for 11/10/2015 02:00 PM has been resulted as follows:<br>Result: Held as Scheduled<br>After hearing Oral Motion to reduce bail Denied Krupp, J - C Ham, ADA - J. Perullo, Atty (JAVS L/B)  |    |
| 11/19/2015 | Event Result: Not in court<br>The following event: Motion Hearing scheduled for 11/19/2015 09:30 AM has been resulted as follows:<br>Result: Not Held<br>Reason: Joint request of parties continued to 12/30/15 hearing re discovery. Jail list Krupp, J. - E. Keeley, ADA. - JAVS  |    |
| 12/07/2015 | Event Result:<br>The following event: Pre-Trial Hearing scheduled for 12/08/2015 09:00 AM has been resulted as follows:<br>Result: Canceled<br>Reason: By Court prior to date   |    |
| 12/07/2015 | Commonwealth 's EX PARTE Motion regarding Impoundment Order Motion ordered impounded until 12/30/15 hearing. (order expires 12/31/15). JAVS recording impounded with motion. Ames, J.   | 37 |
| 12/07/2015 | Commonwealth 's Notice of Ninth Statement of Discovery  | 38 |

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| 12/14/2015 | Defendant 's Motion to dismiss discovery violations and memo of law in support of, filed  | 39 |
| 12/29/2015 | Opposition to paper #39.0 (Defendant's Motion for Information Related to Affiant & Confidential Informant Reliability) filed by Commonwealth  | 40 |
| 12/30/2015 | Deft brought into court. P#39 taken under advisement. Krupp, J Continued to 2/19/16 by agreement re motion to dismiss(713). Deft to file motion no later than 1/13/16(out of court) Comm to file opposition no later than 1/27/16(out of court) Krupp, J. - E. Keeley, ADA. - K. Hoffman, Atty BPD. - J. Perullo, Atty. - JAVS.                               |    |
| 12/30/2015 | Opposition to paper #39.0 motion to dismiss filed by Commonwealth<br><br>Applies To: Ham, Esq., Catherine Hyo-Kyung (Attorney) on behalf of Commonwealth (Prosecutor); Perullo, Esq., Joseph M. (Attorney) on behalf of Dew, Anthony J (Defendant)  | 41 |
| 12/30/2015 | Commonwealth 's Motion for a protective order   | 42 |
| 12/30/2015 | Endorsement on Motion for protective order, (#42.0): ALLOWED as endorsed with the assent of counsel. -- MOTION ORDERED IMPOUNDED  |    |
| 12/30/2015 | Commonwealth 's Assented to Motion for Impoundment of the pleadings and to proceed in camera.   | 43 |
| 12/30/2015 | Endorsement on Motion for impoundment of pleadings (P#'s 42 and 43) and to proceed in camera, (#43.0): ALLOWED with assent of defendant. - MOTION ORDERED IMPOUNDED.  |    |
| 12/30/2015 | Event Result: Def not present for hearing<br>HEARING HELD IN COURTROOM 306 BEFORE AMES, J. - Hearing ordered impounded.<br>The following event: Hearing for Protective Order scheduled for 12/30/2015 12:50 PM has been resulted as follows:<br>Result: Held as Scheduled<br><br>Ames, J - E. Keely, ADA - J. Perullo, Atty JAVS (ctroom 306 12:50 - 1:00 pm) |    |
| 12/30/2015 | Defendant oral motion<br>motion for reduction of bail denied.<br>Krupp, J. - E. Keeley, ADA. - J. Perullo, Atty. - JAVS   |    |
| 12/31/2015 | Endorsement on Motion for Information Related to Affiant and Confidential Informant Reliability, (#30.0): DENIED AS ENDORSED  |    |
| 12/31/2015 | Endorsement on Motion to dismiss for discovery violations, (#39.0): DENIED AS ENDORSED  |    |
| 01/13/2016 | Defendant 's Motion to dismiss counsel with affidavit in support thereof. Filed Pro-Se (Copy to Attorney J. Perrillo and E. Keeley,ADA)<br><br>Applies To: Keeley, Esq., Elizabeth K. (Attorney) on behalf of Commonwealth (Prosecutor); Perullo, Esq., Joseph M. (Attorney) on behalf of Dew, Anthony J (Defendant)  | 44 |
| 01/14/2016 | The following form was generated:<br>A Clerk's Notice was generated and sent to:<br>Attorney: Joseph M. Perullo, Esq.<br>Attorney: E. Keekey, ADA   |    |
| 01/19/2016 | Notice of docket entry received from Supreme Judicial Court<br>Order: It is ordered that the application for leave to file an appeal be Denied<br><br>Applies To: Dew, Anthony J (Defendant); Ham, Esq., Catherine Hyo-Kyung (Attorney) on behalf of Commonwealth (Prosecutor); Perullo, Esq., Joseph M. (Attorney) on behalf of Dew, Anthony J (Defendant)   | 45 |
| 02/19/2016 | Event Result:<br>The following event: Evidentiary Hearing to Dismiss scheduled for 02/19/2016 09:00 AM has been resulted as follows:<br>Result: Held as Scheduled - Hearing on Defendant's PRO SE Motion to Remove Consel and for Appointment of New Counsel Heard and Allowed, Tochka J. - E. Keeley, ADA - J. Perullo, Atty, JAVS.                          |    |
| 02/19/2016 | Defendant Joseph M. Perullo, Esq.'s EX PARTE Motion to Withdraw and Motion to Impound any Ex Parte Hearing<br>COURT ORDERS P#46 IMPOUNDED, Tochka, J  | 46 |
| 02/19/2016 | Endorsement on Motion to Remove Counsel and for Appointment of New Counsel, (#44.0): ALLOWED  |    |

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|            | After hearing with no objection by Commonwealth   |    |
| 02/19/2016 | Endorsement on Motion to Withdraw and motion to impound any ex parte hearing, (#46.0): ALLOWED after hearing with no objection  |    |
| 02/19/2016 | Appearance entered<br>On this date Richard M Doyle, Jr., Esq. added as Appointed - Indigent Defendant for Defendant Anthony James Dew<br>Appointment made for the purpose of Case in Chief by Judge Hon. Robert N Tochka.<br><br>Continueud by agreement as follows:<br>march 30, 2016 at 9:00 am by agreement for status in first session<br>May 05, 2016, at 2:00 pm for FPTC in Courtroom 817<br>May 23, 2016 at 9:00 am for trial in Courtroom 817.<br><br>(Cancel March 3, 2016 FPTC and March 15, 2016, Trial)<br><br>Tochka, J - E. Keeley, ADA, R. Doyle, Atty, JAVS (ctroom 713) |    |
| 02/19/2016 | Event Result:<br>The following event: Final Pre-Trial Conference scheduled for 03/03/2016 02:00 PM has been resulted as follows:<br>Result: Rescheduled due to new counsel being appointed<br>Reason: Joint request of parties  |    |
| 02/19/2016 | Event Result:<br>The following event: Jury Trial scheduled for 03/15/2016 09:00 AM has been resulted as follows:<br>Result: Rescheduled due to new counsel being appointed<br>Reason: Joint request of parties  |    |
| 03/15/2016 | Defendant 's Motion for Discovery and production of discoverable information filed.   | 47 |
| 03/15/2016 | Defendant 's Supplemental Motion for Discovery and Production of Discoverable information filed   | 48 |
| 03/15/2016 | Defendant 's Motion for Expenses filed  | 49 |
| 03/15/2016 | Defendant 's Motion for Criminal Records and Certified Copies of Criminal Convictions - Appearances of Counsel of Commonwealth's Civilian Witnesses filed   | 50 |
| 03/30/2016 | Not in court<br>As to P#49 Allowed<br>P#50 allowed<br>Continued by agreement to 4-21-16 re status, tracking and motions(J). Jail list<br>Roach, J. - E. Keeley, ADA. - R. Doyle, Atty. - FTR  |    |
| 03/30/2016 | Commonwealth 's Statement of discovery 9  | 51 |
| 03/30/2016 | Commonwealth 's Statement of discovery 10   | 52 |
| 04/21/2016 | Brought into court<br>Case has next date<br>Krupp, J. - E. Keeley, ADA. - R. Doyle, Atty. - FTR   |    |
| 04/21/2016 | Commonwealth 's Response to deft's motion for discovery   | 53 |
| 04/21/2016 | Commonwealth 's Statement of discovery XI   | 54 |
| 04/21/2016 | Commonwealth files certificate of compliance.   | 55 |
| 04/28/2016 | Business Records received from Backpage.com   |    |
| 05/05/2016 | Event Result:<br>The following event: Final Pre-Trial Conference scheduled for 05/05/2016 02:00 PM has been resulted as follows:<br>Result: Held as Scheduled<br><br>Defendant brought into court.<br><br>Continued to May 19, 2016 at 2PM in Fifth SEssion for FPTC<br><br>Sanders, J.<br>E. Keeley, ADA<br>R. Doyle, Atty<br>ERD - FTR  |    |

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|            | Applies To: Dew, Anthony J (Defendant); Doyle, Jr., Esq., Richard M (Attorney) on behalf of Dew, Anthony J (Defendant); Keeley, Esq., Elizabeth K. (Attorney) on behalf of Commonwealth (Prosecutor)  |    |
| 05/05/2016 | Joint Pre-Trial Memorandum filed:   | 56 |
| 05/05/2016 | Commonwealth 's Motion to Allow Probation Officials to Testify in Court at Trial Pursuant to Trial Court Rule IX.<br>MOTION ALLOWED.  | 57 |
| 05/05/2016 | Defendant 's Motion to Expedite Transcript<br>MOTION ALLOWED  | 58 |
| 05/19/2016 | Event Result:<br>The following event: Final Pre-Trial Conference scheduled for 05/19/2016 02:00 PM has been resulted as follows:<br>Result: Held as Scheduled. Defendant brought into court. Final pre-trial conference held before Sanders. Due to court congestion, the trial is continued to 5/30/16 in 817. C/R Keegan. (jail list) |    |
| 05/19/2016 | Defendant 's Motion in limine for Commonwealth Not to Use the Term "Victim"<br><br>Applies To: Doyle, Jr., Esq., Richard M (Attorney) on behalf of Dew, Anthony J (Defendant); Keeley, Esq., Elizabeth K. (Attorney) on behalf of Commonwealth (Prosecutor)   | 59 |
| 05/19/2016 | Defendant 's Motion in limine to Prohibit Evidence of Prior Misconduct<br><br>Applies To: Doyle, Jr., Esq., Richard M (Attorney) on behalf of Dew, Anthony J (Defendant); Keeley, Esq., Elizabeth K. (Attorney) on behalf of Commonwealth (Prosecutor)  | 60 |
| 05/19/2016 | Defendant 's Motion in limine regarding Prior Convictions<br><br>Applies To: Doyle, Jr., Esq., Richard M (Attorney) on behalf of Dew, Anthony J (Defendant); Keeley, Esq., Elizabeth K. (Attorney) on behalf of Commonwealth (Prosecutor)   | 61 |
| 05/19/2016 | Defendant 's Motion for Specific Voir Dire of Prospective Jurors<br><br>Applies To: Doyle, Jr., Esq., Richard M (Attorney) on behalf of Dew, Anthony J (Defendant); Keeley, Esq., Elizabeth K. (Attorney) on behalf of Commonwealth (Prosecutor)  | 63 |
| 05/19/2016 | Defendant 's Motion for requiring finding of not guilty<br><br>Applies To: Doyle, Jr., Esq., Richard M (Attorney) on behalf of Dew, Anthony J (Defendant); Keeley, Esq., Elizabeth K. (Attorney) on behalf of Commonwealth (Prosecutor)   | 64 |
| 05/19/2016 | Defendant 's Motion for requiring finding of not guilty at close of the evidence<br><br>Applies To: Doyle, Jr., Esq., Richard M (Attorney) on behalf of Dew, Anthony J (Defendant); Keeley, Esq., Elizabeth K. (Attorney) on behalf of Commonwealth (Prosecutor)  | 65 |
| 05/20/2016 | Defendant 's Motion in limine regarding Sanitize Defendant's Record<br><br>Applies To: Doyle, Jr., Esq., Richard M (Attorney) on behalf of Dew, Anthony J (Defendant); Keeley, Esq., Elizabeth K. (Attorney) on behalf of Commonwealth (Prosecutor)   | 62 |
| 05/25/2016 | Event Result:<br>The following event: Jury Trial scheduled for 05/31/2016 09:00 AM has been resulted as follows:<br>Result: Canceled<br>Reason: Transferred to another session.Ctrm 907 for trial on 5/31/16 Jail list  |    |
| 05/31/2016 | Commonwealth 's Motion for judicial inquiry into criminal history records of potential trial jurors   | 66 |
| 05/31/2016 | Commonwealth 's Notice of proposed jury voir dire questions   | 67 |
| 05/31/2016 | Commonwealth 's Motion in limine to preclude reference to any alleged allegations of a sexual nature by the victims against individuals other than the defendant pursuant to Comm. vs Bohannon  | 68 |
| 05/31/2016 | Commonwealth 's Motion in limine to preclude reference to ant alleged sexual history of the victims   | 69 |
| 05/31/2016 | Commonwealth 's Motion in limine to exclude evidence of other escort posting allegedly authored by the complainants and reference to any alleged history of prostitution  | 70 |
| 05/31/2016 | Commonwealth 's Motion in limine to preclude defense from questioning witnesses on their transgender status   | 71 |
| 05/31/2016 | Commonwealth 's Motion in limine of memorandum to introduce expert testimony  | 72 |
| 05/31/2016 | Commonwealth 's Notice of expert testimony  | 73 |

|            |  |  |    |
|------------|--|--|----|
| 05/31/2016 | Commonwealth 's  | Motion in limine to admit evidence of contemporaneous bad acts   | 74 |
| 05/31/2016 | Commonwealth 's  | Motion in limine to admit certain evidence for limited purposes  | 75 |
| 05/31/2016 | Commonwealth 's  | Motion in limine to admit certain records without the testimony of a keeper of records   | 76 |
| 05/31/2016 | Commonwealth 's  | Motion in limine to admit testimony of non testing chemical as to composition of controlled substance                          | 77 |
| 05/31/2016 | Commonwealth 's  | Motion in limine to admit independant expert opinion of non-testing analyst as to chemical composition of controlled substance | 78 |
| 05/31/2016 | Commonwealth 's  | Motion in limine to admit in court identification pursuant to Comm. vs Crayton   | 79 |
| 05/31/2016 | Commonwealth 's  | Motion in limine to admit in court identification pursuant to Comm. vs Collins   | 80 |
| 05/31/2016 | Commonwealth 's  | Motion in limine to admit the defendant's prior convictions for the limited purposes of impeachment                            | 81 |
| 05/31/2016 | Commonwealth 's  | Submission of witness list   | 82 |
| 05/31/2016 | Commonwealth 's  | Notice of discovery 12   | 83 |
| 05/31/2016 | <p>Event Result:Deft brought into court. Witnesses McDonough,Wilson, and Awalt recognized in open court and ordered to appear on 6/316 at (9:00am) by order of the court<br/>The following event: Jury Trial scheduled for 05/31/2016 09:00 AM has been resulted as follows:<br/>Result: Held as Scheduled<br/>After hearing paper #66, 68, 71, 72, 77, 78, 79, 80 allowed after hearing.</p> <p>Applies To: Dew, Anthony J (Defendant); Doyle, Jr., Esq., Richard M (Attorney) on behalf of Dew, Anthony J (Defendant); Keeley, Esq., Elizabeth K. (Attorney) on behalf of Commonwealth (Prosecutor)- N. McCann, CR</p> |  |    |
| 06/01/2016 | Defendant waives rights.   |  |    |
| 06/01/2016 | Colloquy - Defendant advised of right to attorney  |  |    |
| 06/01/2016 | Finding on plea of guilty.   |  |    |
| 06/01/2016 | Defendant warned pursuant to alien status, G.L. c. 278, § 29D.   |  |    |
| 06/01/2016 | Defendant warned pursuant to the habitual offender statute G.L. c. 279, § 25(d)  |  |    |
| 06/01/2016 | Notice to defendant prior to accepting a plea for a sex offense filed and signed.  |  |    |
| 06/01/2016 | Notice given to defendant of duty to register as a sex offender.   |  |    |
| 06/01/2016 | <p>Defendant warned as to submission of DNA G.L. c. 22E, § 3</p> <p>Applies To: Dew, Anthony J (Defendant); Doyle, Jr., Esq., Richard M (Attorney) on behalf of Dew, Anthony J (Defendant); Keeley, Esq., Elizabeth K. (Attorney) on behalf of Commonwealth (Prosecutor)- N. McCann, CR</p>  |  |    |
| 06/01/2016 | <p>Event Result: Defendant arraigned as to the subsequent offense portion of offense #010 and pleads not guilty<br/>The following event: Jury Trial scheduled for 06/01/2016 09:00 AM has been resulted as follows:<br/>Result: Not Held as Scheduled - Plea<br/>Reason: Plea Offered<br/>Brought into court</p>   |  |    |
| 06/01/2016 | <p>Offense Disposition:<br/>Charge #1 TRAFFICKING OF PERSON FOR SEXUAL SERVITUDE c265 §50(a)<br/>Date: 06/01/2016<br/>Method: Hearing on Plea Offer/Change<br/>Code: Guilty Plea - Agreed Upon<br/>Judge: Giles, Hon. Linda E</p> <p>Charge #2 TRAFFICKING OF PERSON FOR SEXUAL SERVITUDE c265 §50(a)<br/>Date: 06/01/2016<br/>Method: Hearing on Plea Offer/Change<br/>Code: Guilty Plea - Agreed Upon<br/>Judge: Giles, Hon. Linda E</p> <p>Charge #3 TRAFFICKING OF PERSON FOR SEXUAL SERVITUDE c265 §50(a)<br/>Date: 06/01/2016</p>  |  |    |

Method: Hearing on Plea Offer/Change  
Code: Guilty Plea - Agreed Upon  
Judge: Giles, Hon. Linda E

Charge #4 TRAFFICKING OF PERSON FOR SEXUAL SERVITUDE c265 §50(a)  
Date: 06/01/2016  
Method: Hearing on Plea Offer/Change  
Code: Guilty Plea - Agreed Upon  
Judge: Giles, Hon. Linda E

Charge #5 TRAFFICKING OF PERSON FOR SEXUAL SERVITUDE c265 §50(a)  
Date: 06/01/2016  
Method: Hearing on Plea Offer/Change  
Code: Guilty Plea - Agreed Upon  
Judge: Giles, Hon. Linda E

Charge #7 A&B WITH DANGEROUS WEAPON c265 §15A(b)  
Date: 06/01/2016  
Method: Hearing on Plea Offer/Change  
Code: Guilty Plea - Agreed Upon  
Judge: Giles, Hon. Linda E

Charge #8 A&B WITH DANGEROUS WEAPON c265 §15A(b)  
Date: 06/01/2016  
Method: Hearing on Plea Offer/Change  
Code: Guilty Plea - Agreed Upon  
Judge: Giles, Hon. Linda E

Charge #9 A&B c265 §13A(a)  
Date: 06/01/2016  
Method: Hearing on Plea Offer/Change  
Code: Guilty Plea - Agreed Upon  
Judge: Giles, Hon. Linda E

Charge #10 DRUG, POSSESS TO DISTRIB CLASS A, SUBSQ. c94C §32(b)  
Date: 06/01/2016  
Method: Hearing on Plea Offer/Change  
Code: Guilty Plea - Agreed Upon  
Judge: Giles, Hon. Linda E

Charge #11 DRUG, DISTRIBUTE CLASS A c94C §32(a)  
Date: 06/01/2016  
Method: Hearing on Plea Offer/Change  
Code: Guilty Plea - Agreed Upon  
Judge: Giles, Hon. Linda E

Charge #12 DRUG, DISTRIBUTE CLASS A c94C §32(a)  
Date: 06/01/2016  
Method: Hearing on Plea Offer/Change  
Code: Guilty Plea - Agreed Upon  
Judge: Giles, Hon. Linda E

Charge #13 DRUG, DISTRIBUTE CLASS A c94C §32(a)  
Date: 06/01/2016  
Method: Hearing on Plea Offer/Change  
Code: Guilty Plea - Agreed Upon  
Judge: Giles, Hon. Linda E

Charge #14 DRUG, DISTRIBUTE CLASS A c94C §32(a)  
Date: 06/01/2016  
Method: Hearing on Plea Offer/Change  
Code: Guilty Plea - Agreed Upon  
Judge: Giles, Hon. Linda E

Charge #15 DRUG, DISTRIBUTE CLASS A c94C §32(a)  
Date: 06/01/2016  
Method: Hearing on Plea Offer/Change  
Code: Guilty Plea - Agreed Upon  
Judge: Giles, Hon. Linda E

Charge #16 DRUG, DISTRIBUTE CLASS A c94C §32(a)

Date: 06/01/2016  
Method: Hearing on Plea Offer/Change  
Code: Guilty Plea - Agreed Upon  
Judge: Giles, Hon. Linda E

Charge #17 DRUG, DISTRIBUTE CLASS B c94C §32A(a)  
Date: 06/01/2016  
Method: Hearing on Plea Offer/Change  
Code: Guilty Plea - Agreed Upon  
Judge: Giles, Hon. Linda E

Charge #18 DRUG, DISTRIBUTE CLASS B c94C §32A(a)  
Date: 06/01/2016  
Method: Hearing on Plea Offer/Change  
Code: Guilty Plea - Agreed Upon  
Judge: Giles, Hon. Linda E

Charge #19 DRUG, DISTRIBUTE CLASS B c94C §32A(a)  
Date: 06/01/2016  
Method: Hearing on Plea Offer/Change  
Code: Guilty Plea - Agreed Upon  
Judge: Giles, Hon. Linda E

06/01/2016 Defendant sentenced:  
Sentence Date: 06/01/2016 Judge: Giles, Hon. Linda E

Charge #: 1 TRAFFICKING OF PERSON FOR SEXUAL SERVITUDE c265 §50(a)  
State Prison Sentence  
State Prison Sentence-Not Less Than: 8 Years, 0 Months, 0 Days

State Prison Sentence-Not More Than: 10 Years, 0 Months, 0 Days

Served Primary Charge Charge # 1

Charge #: 2 TRAFFICKING OF PERSON FOR SEXUAL SERVITUDE c265 §50(a)  
State Prison Sentence  
State Prison Sentence-Not Less Than: 8 Years, 0 Months, 0 Days

State Prison Sentence-Not More Than: 10 Years, 0 Months, 0 Days

Served Concurrently Charge # 1

Charge #: 3 TRAFFICKING OF PERSON FOR SEXUAL SERVITUDE c265 §50(a)  
State Prison Sentence  
State Prison Sentence-Not Less Than: 8 Years, 0 Months, 0 Days

State Prison Sentence-Not More Than: 10 Years, 0 Months, 0 Days

Served Concurrently Charge # 1

Charge #: 4 TRAFFICKING OF PERSON FOR SEXUAL SERVITUDE c265 §50(a)  
State Prison Sentence  
State Prison Sentence-Not Less Than: 8 Years, 0 Months, 0 Days

State Prison Sentence-Not More Than: 10 Years, 0 Months, 0 Days

Served Concurrently Charge # 1

Charge #: 10 DRUG, POSSESS TO DISTRIB CLASS A, SUBSQ. c94C §32(b)  
State Prison Sentence  
State Prison Sentence-Not Less Than: 8 Years, 0 Months, 0 Days

State Prison Sentence-Not More Than: 10 Years, 0 Months, 0 Days

Served Concurrently Charge # 1

Committed to MCI - Cedar Junction (at Walpole)

Credits 504 Days

06/01/2016 Issued on this date:

Mitt For Sentence (First 6 charges)  
Sent On: 06/01/2016 11:19:02

06/01/2016 Correction Sentence Date: 06/01/2016 Judge: Giles, Hon. Linda E

Charge #: 5 TRAFFICKING OF PERSON FOR SEXUAL SERVITUDE c265 §50(a)  
Served Consecutively Charge # 1

Charge #: 7 A&B WITH DANGEROUS WEAPON c265 §15A(b)  
Served Consecutively Charge # 1

Charge #: 8 A&B WITH DANGEROUS WEAPON c265 §15A(b)  
Served Consecutively Charge # 1

Charge #: 9 A&B c265 §13A(a)  
Served Consecutively Charge # 1

Charge #: 11 DRUG, DISTRIBUTE CLASS A c94C §32(a)  
Served Consecutively Charge # 1

Charge #: 12 DRUG, DISTRIBUTE CLASS A c94C §32(a)  
Served Consecutively Charge # 1

Charge #: 13 DRUG, DISTRIBUTE CLASS A c94C §32(a)  
Served Consecutively Charge # 1

Charge #: 14 DRUG, DISTRIBUTE CLASS A c94C §32(a)  
Served Consecutively Charge # 1

Charge #: 15 DRUG, DISTRIBUTE CLASS A c94C §32(a)  
Served Consecutively Charge # 1

Charge #: 16 DRUG, DISTRIBUTE CLASS A c94C §32(a)  
Served Consecutively Charge # 1

Charge #: 17 DRUG, DISTRIBUTE CLASS B c94C §32A(a)  
Served Consecutively Charge # 1

Charge #: 18 DRUG, DISTRIBUTE CLASS B c94C §32A(a)  
Served Consecutively Charge # 1

Charge #: 19 DRUG, DISTRIBUTE CLASS B c94C §32A(a)  
Served Consecutively Charge # 1

Probation  
Probation Type: Risk/Need Probation  
Duration: 7 Years, 0 Months, 0 Days

06/01/2016 Offense Disposition:

Charge #1 TRAFFICKING OF PERSON FOR SEXUAL SERVITUDE c265 §50(a)  
Date: 06/01/2016  
Method: Hearing on Plea Offer/Change  
Code: Guilty Plea - Agreed Upon  
Judge: Giles, Hon. Linda E

Charge #2 TRAFFICKING OF PERSON FOR SEXUAL SERVITUDE c265 §50(a)  
Date: 06/01/2016  
Method: Hearing on Plea Offer/Change  
Code: Guilty Plea - Agreed Upon  
Judge: Giles, Hon. Linda E

Charge #3 TRAFFICKING OF PERSON FOR SEXUAL SERVITUDE c265 §50(a)  
Date: 06/01/2016  
Method: Hearing on Plea Offer/Change  
Code: Guilty Plea - Agreed Upon  
Judge: Giles, Hon. Linda E

Charge #4 TRAFFICKING OF PERSON FOR SEXUAL SERVITUDE c265 §50(a)

Date: 06/01/2016  
Method: Hearing on Plea Offer/Change  
Code: Guilty Plea - Agreed Upon  
Judge: Giles, Hon. Linda E

Charge #5 TRAFFICKING OF PERSON FOR SEXUAL SERVITUDE c265 §50(a)

Date: 06/01/2016  
Method: Hearing on Plea Offer/Change  
Code: Guilty Plea - Agreed Upon  
Judge: Giles, Hon. Linda E

Charge #6 RAPE c265 §22(b)

Date: 06/01/2016  
Method: Hearing on Plea Offer/Change  
Code: Dismissed, defendant assenting thereto  
Judge: Giles, Hon. Linda E

Charge #7 A&B WITH DANGEROUS WEAPON c265 §15A(b)

Date: 06/01/2016  
Method: Hearing on Plea Offer/Change  
Code: Guilty Plea - Agreed Upon  
Judge: Giles, Hon. Linda E

Charge #8 A&B WITH DANGEROUS WEAPON c265 §15A(b)

Date: 06/01/2016  
Method: Hearing on Plea Offer/Change  
Code: Guilty Plea - Agreed Upon  
Judge: Giles, Hon. Linda E

Charge #9 A&B c265 §13A(a)

Date: 06/01/2016  
Method: Hearing on Plea Offer/Change  
Code: Guilty Plea - Agreed Upon  
Judge: Giles, Hon. Linda E

Charge #10 DRUG, POSSESS TO DISTRIB CLASS A, SUBSQ. c94C §32(b)

Date: 06/01/2016  
Method: Hearing on Plea Offer/Change  
Code: Guilty Plea - Agreed Upon  
Judge: Giles, Hon. Linda E

Charge #11 DRUG, DISTRIBUTE CLASS A c94C §32(a)

Date: 06/01/2016  
Method: Hearing on Plea Offer/Change  
Code: Guilty Plea - Agreed Upon  
Judge: Giles, Hon. Linda E

Charge #12 DRUG, DISTRIBUTE CLASS A c94C §32(a)

Date: 06/01/2016  
Method: Hearing on Plea Offer/Change  
Code: Guilty Plea - Agreed Upon  
Judge: Giles, Hon. Linda E

Charge #13 DRUG, DISTRIBUTE CLASS A c94C §32(a)

Date: 06/01/2016  
Method: Hearing on Plea Offer/Change  
Code: Guilty Plea - Agreed Upon  
Judge: Giles, Hon. Linda E

Charge #14 DRUG, DISTRIBUTE CLASS A c94C §32(a)

Date: 06/01/2016  
Method: Hearing on Plea Offer/Change  
Code: Guilty Plea - Agreed Upon  
Judge: Giles, Hon. Linda E

Charge #15 DRUG, DISTRIBUTE CLASS A c94C §32(a)

Date: 06/01/2016  
Method: Hearing on Plea Offer/Change  
Code: Guilty Plea - Agreed Upon  
Judge: Giles, Hon. Linda E

|            |   |    |
|------------|---|----|
|            | Charge #16 DRUG, DISTRIBUTE CLASS A c94C §32(a)<br>Date: 06/01/2016<br>Method: Hearing on Plea Offer/Change<br>Code: Guilty Plea - Agreed Upon<br>Judge: Giles, Hon. Linda E  |    |
|            | Charge #17 DRUG, DISTRIBUTE CLASS B c94C §32A(a)<br>Date: 06/01/2016<br>Method: Hearing on Plea Offer/Change<br>Code: Guilty Plea - Agreed Upon<br>Judge: Giles, Hon. Linda E   |    |
|            | Charge #18 DRUG, DISTRIBUTE CLASS B c94C §32A(a)<br>Date: 06/01/2016<br>Method: Hearing on Plea Offer/Change<br>Code: Guilty Plea - Agreed Upon<br>Judge: Giles, Hon. Linda E   |    |
|            | Charge #19 DRUG, DISTRIBUTE CLASS B c94C §32A(a)<br>Date: 06/01/2016<br>Method: Hearing on Plea Offer/Change<br>Code: Guilty Plea - Agreed Upon<br>Judge: Giles, Hon. Linda E   |    |
| 06/01/2016 | Event Result:<br>The following event: Jury Trial scheduled for 06/02/2016 09:00 AM has been resulted as follows:<br>Result: Canceled<br>Reason: Plea Offered  |    |
| 07/18/2016 | Defendant 's Motion for Return of Property filed  | 85 |
| 07/18/2016 | Defendant 's Motion for Free Transcript filed   | 86 |
| 07/20/2016 | The following form was generated:<br>A Clerk's Notice was generated and sent to:<br>Defendant: Anthony James Dew (P#86)   |    |
| 07/20/2016 | The following form was generated:<br>A Clerk's Notice was generated and sent to:<br>Defendant: Anthony James Dew (P#85)   |    |
| 07/20/2016 | Endorsement on , (#86.0): ALLOWED<br>Defendant Pro -Se files motion for free transcript.<br>Endorsed as follows , motion is hereby ALLOWED<br>Sent to Defendant, returned w/o service, resent to Atty Doyle   |    |
| 07/20/2016 | Endorsement on , (#85.0): DENIED<br>Defendant's Pro-Se motion for return of property: Endorsed as follows: the motion is hereby DENIED<br>without prejudice, in the absence of a supporting affidavit<br>Sent to Defendant, returned w/o service, resent to Atty Doyle  |    |
| 08/19/2016 | Pro Se Defendant 's Motion for Any and All Papers, Documents, Statements and or all Any Other<br>Subject Matter on File at the Courthouse filed   | 87 |
| 08/19/2016 | The following form was generated:<br>A Clerk's Notice was generated and sent to:<br>Attorney: Elizabeth K. Keeley, Esq.<br>Other interested party: Hon. Linda E Giles   |    |
| 08/24/2016 | Defendant 's Notice of Appearance of Adam Us  |    |
| 08/24/2016 | Attorney appearance<br>On this date Adam Us, Esq. added for Defendant Anthony James Dew   |    |
| 08/26/2016 | Court Reporter Nancy McCann is hereby notified to prepare one copy of the transcript of the evidence<br>of 06/01/2016 09:00 AM Jury Trial<br>Plea hearing   |    |
| 09/07/2016 | Endorsement on Motion for Any and All Papers, Documents, Statements and or all Any Other Subject<br>Matter on File at the Courthouse, (#87.0): DENIED<br>"The Defendant did plead guilty and received the benefit of a joint recommendation as to his sentence. In<br>the absence of any justification warranting the time and expense to copy and mail all the items<br>requested the court hereby Denies the Motion". (Notice of Endorsement sent to Defendant Pro-Se and<br>ADA Keeley). |    |

|            |   |    |                       |
|------------|---|----|-----------------------|
| 09/09/2016 | Pro Se Defendant 's Motion for Return of Property w/ affidavit in support thereof. Filed.<br>(Copy w/ Docket to Giles,J and E. Keeley/ ADA)   | 88 |                       |
| 10/23/2016 | Endorsement on , (#89.0): ALLOWED<br>(Deft, Adam Us, E Keeley ADA w/ copy)  |    |                       |
| 10/24/2016 | Adam Us, Esq.'s Motion to Withdraw as Court-Appointed Screening Counsel. Filed.<br>(Copy w/ docket to Giles, J)   | 89 |                       |
| 10/27/2016 | The following form was generated:<br>A Clerk's Notice was generated and sent to:<br>Other interested party: Hon. Linda E Giles  |    |                       |
| 10/28/2016 | Pro Se Defendant 's Motion for Grand Jury Testimony/Transcript filed  | 90 |                       |
| 10/28/2016 | Attorney appearance<br>On this date Adam Us, Esq. dismissed/withdrawn for Defendant Anthony James Dew   |    |                       |
| 11/07/2016 | Pro Se Defendant 's Motion for Appointment of New Counsel to Withdraw Guilty Plea filed   | 91 |                       |
| 11/07/2016 | The following form was generated:<br>A Clerk's Notice was generated and sent to:<br>Other interested party: Hon. Linda E Giles  |    |                       |
| 11/07/2016 | The following form was generated:<br>A Clerk's Notice was generated and sent to:<br>Other interested party: Hon. Linda E Giles  |    |                       |
| 11/07/2016 | Attorney appearance<br>On this date Adam Us, Esq. added as Limited Appearance Counsel for Defendant Anthony James Dew   |    |                       |
| 11/07/2016 | Adam Us, Esq.'s Notice of Limited Appearance for Filing of a Motion to Clarify the December 30, 2015<br>Impoundment Order and Motion to Withdraw Upon an Order on the Motion to Clarify.  | 92 |                       |
| 11/07/2016 | Defendant 's Motion for Clarification of Impoundment Orders and for in-camera Hearing Thereon<br>Pursuant to Uniform Rules on Impoundment Rule 7  | 93 |                       |
| 11/08/2016 | The following form was generated:<br>A Clerk's Notice was generated and sent to:<br>Other interested party: Hon. Linda E Giles  |    |                       |
| 11/15/2016 | Pro Se Defendant 's Motion to compel with affidavit in support thereof with motion for writ habeas<br>corpus. filed.<br>(Copy with docket sent to Giles, J & E. Keeley, ADA)  | 94 |                       |
| 11/15/2016 | Endorsement on Motion for Return of Property, (#88.0): Other action taken<br>Endorsed as Follows: "The Commonwealth shall have thirty(30) days within which to respond to this<br>motion, if at all"<br>(Copy Of Endorsement Sent to Defendant Pro-Se and E. Keeley, A.D.A.)  |    | <a href="#">Image</a> |
| 11/15/2016 | Endorsement on Motion for Grand Jury Testimony/Transcript, (#90.0): DENIED<br>Endorsed as Follows: "Without any basis for this request, the court hereby DENIES the motion"<br>(Copy of Endorsement to Defendant Pro-se and E. Keeley,ADA)  |    | <a href="#">Image</a> |
| 11/15/2016 | Endorsement on Motion for Appointment of New Counsel to Withdraw Guilty Plea, (#91.0): DENIED<br>Endorsed as Follows"without any Basis for Appointing counsel, the court hereby DENIES the motion"<br>(Copy of Endorsement to Defendant pro-se and E. Keeley,A.D.A.)  |    | <a href="#">Image</a> |
| 11/15/2016 | Endorsement on Motion for Clarification of Impoundment Orders and for in-Camera Hearing there on<br>Pursuant to Uniform Rules on Impoundment Rule 7, (#93.0): Other action taken<br>Endorsed as Follows: "The Commonwealth shall have thirty (30) days within which to respond, if at all,<br>to this motion"<br>(Copy Of Endorsement to A. Us, Atty and E. Keeley,ADA) |    | <a href="#">Image</a> |
| 11/16/2016 | Commonwealth Kathryn Leary, Esq.'s Notice of Appearance   | 95 |                       |
| 11/22/2016 | The following form was generated:<br>A Clerk's Notice was generated and sent to:<br>Defendant: Anthony James Dew  |    |                       |
| 11/25/2016 | Pro Se Defendant 's Motion for A Free CD<br>(Copy Sent to Giles,J)  | 96 |                       |
| 11/25/2016 | Defendant Adam Us, Esq.'s Motion to Withdraw the Motion to Clarify Without Prejudice and Motion to<br>Withdraw Limited Appearance w/ Affidavit in Support   | 97 |                       |

|            |  |                       |
|------------|--|-----------------------|
|            | (Copy with Docket Sent to Giles,J)<br>filed  |                       |
| 12/09/2016 | Commonwealth 's Response to Defendants PRO SE Motion for Return of Property<br>filed<br>(Copy w/ Docket to Giles,J)  | 98                    |
| 12/09/2016 | Commonwealth 's Response to Defendant's Motion for Clarification of Impoundments Orders and For<br>In-Camera Hearing<br>filed<br>(Copy w/ Docket to Giles,J)   | 99                    |
| 12/09/2016 | Endorsement on Motion for a Free CD, (#96.0): DENIED<br>Endorsed as Follows: The Defendant Pled Guilty to the charges against him and has provided no<br>reason for his need for this CD.<br>(Copy of Endorsement to Def. ProSe) |                       |
| 12/09/2016 | Endorsement on Motion to Withdraw the Motion to Clarify Without Prejudice and Motion to Withdraw<br>Limited Appearance, (#97.0): ALLOWED<br>(Copy Of Endorsement to E.Keeley,A.D.A. and Adam Us,Atty)                            |                       |
| 12/09/2016 | Attorney appearance<br>On this date Adam Us, Esq. dismissed/withdrawn as Limited Appearance Counsel for Defendant<br>Anthony James Dew   |                       |
| 12/27/2016 | The following form was generated:<br>A Clerk's Notice was generated and sent to:<br>Defendant: Anthony James Dew   |                       |
| 12/29/2016 | Transcript received<br><br>Received 6/1/16 Hearing on Change of Plea from Nancy McCann - Sent to Deft. Pro-Se on this Date   |                       |
| 02/08/2017 | Court Reporter Nancy McCann is hereby notified to prepare one copy of the transcript of the evidence<br>of 05/31/2016 09:00 AM Jury Trial  | 100                   |
| 02/28/2017 | Pro Se Defendant 's Motion for for a subpoena Duces Tecum filed  | 101                   |
| 02/28/2017 | Pro Se Defendant 's Request for for a subpoena Duces Tecum filed<br>(Copy w/docket to Giles, J)  | 102                   |
| 02/28/2017 | Pro Se Defendant 's Motion for for a subpoena Duces Tecum filed<br>(Copy w/docket to Giles, J)   | 103                   |
| 02/28/2017 | Pro Se Defendant 's Motion for for a subpoena Duces Tecum filed<br>(Copy w/docket to Giles, J)   | 104                   |
| 02/28/2017 | Pro Se Defendant 's Motion to allow funds necessary to prepare a motion for a new trial w/affidavit in<br>support thereof filed<br>(Copy w/docket to Giles, J)   | 105                   |
| 02/28/2017 | Pro Se Defendant 's Motion for a subpoena ad testificandum filed<br>(Copy w/docket to Giles, J)  | 106                   |
| 02/28/2017 | Pro Se Defendant 's Motion to allow discovery w/affidavit in support thereof filed<br>(Copy w/docket to Giles, J)  | 107                   |
| 02/28/2017 | Pro Se Defendant 's Motion for a subpoena duces tecum in accordance to Mass Crim, P. (a)(1)(2)<br>filed with affidavit in support thereof<br>(Copy w/docket to Giles, J)   | 108                   |
| 02/28/2017 | Pro Se Defendant 's Motion for writ of habeas corpus add testification filed with affidavit in support<br>thereof<br>(Copy w/docket to Giles, J)   | 109                   |
| 03/10/2017 | Endorsement on Motion for A Subpoena Duces Tecum, (#101.0): DENIED<br>(Copy Sent to Deft ProSe)  | <a href="#">Image</a> |
| 03/10/2017 | Endorsement on Motion for A Subpoena Duces Tecum, (#102.0): DENIED<br>(Copy to Deft ProSe)   | <a href="#">Image</a> |
| 03/10/2017 | Endorsement on Motion for A Subpoena Duces Tecum, (#103.0): DENIED<br>(copy sent to Defendant Pro-Se)  | <a href="#">Image</a> |
| 03/10/2017 | Endorsement on Motion for A Subpoena Duces Tecum, (#104.0): DENIED<br>(Copy sent to Deft ProSe)  | <a href="#">Image</a> |

|            |  |                           |
|------------|--|---------------------------|
| 03/10/2017 | Endorsement on Motion to Allow Funds Necessary to Prepare a Motion for a New Trial, (#105.0):<br>DENIED<br>(Copy Sent to Deft ProSe)   | <a href="#">Image</a>     |
| 03/10/2017 | Endorsement on Motion for A Subpoena Ad Testificandum, (#106.0): DENIED<br>(Copy Sent to Deft ProSe)   | <a href="#">Image</a>     |
| 03/10/2017 | Endorsement on Motion to Allow Discovery, (#107.0): DENIED<br>(Copy Sent to Deft ProSe)  | <a href="#">Image</a>     |
| 03/10/2017 | Endorsement on Motion for A Subpoena Duces Tecum in Accordance to Mass Crim p 17(a)(1)(2),<br>(#108.0): DENIED<br>(Copy sent to Deft ProSe)  | <a href="#">Image</a>     |
| 03/10/2017 | Endorsement on Petition for Writ of Habeus Corpus Ad Testificandum, (#109.0): DENIED<br>(Copy sent to Deft ProSe)  | <a href="#">Image</a>     |
| 03/13/2017 | Pro Se Defendant 's Supplemental Motion for Discovery<br>(Copy sent to Giles, J and Leary, A.D.A.)   | 110                       |
| 03/15/2017 | Endorsement on Supplemental Motion for Discovery, (#110.0): DENIED<br>(Copy of Endorsement sent to Deft-ProSe)   | <a href="#">Image</a>     |
| 04/18/2017 | Notice of docket entry received from Supreme Judicial Court<br>"It is Ordered that petition for Extraordinary Relief pursuant to C211S3 shall be and hereby is<br>ALLOWED... it is Further Ordered that immediately upon delivery to the Superior Court of the transcript<br>of the proceedings on May 31st 2016 a hard copy or CD shall be provided to the petitioner.(lenk, J) | 111                       |
| 05/01/2017 | Pro Se Defendant 's Motion to Appointment of Counsel<br>Filed<br>(Copy with Docket to Giles)   | 112                       |
| 05/03/2017 | Pro Se Defendant 's Motion for to Allow Court Audio with Volume for May 31st 2016, and June 1st<br>2016 Guilty Plea<br>(Copy with Docket sent to Giles, J)   | 113                       |
| 05/15/2017 | Defendant 's Motion to Compel<br>Filed<br>(Sent to Giles,J w/ Docket)  | 114                       |
| 05/17/2017 | Pro Se Defendant 's Motion for Subpoena Duces Tecum (Mass. R. Crim. P17(a)(2))<br>(copy with Docket to Giles, J)   | 115                       |
| 06/02/2017 | Endorsement on Motion to appoint counsel , (#112.0): DENIED<br>See Endorsement   | <a href="#">Image</a>     |
| 06/02/2017 | Endorsement on Motion to Allow Court Audio With Volume for May 31st and June 1st Guilty Plea,<br>(#113.0): DENIED<br>As Endorsed" Without Providing any good faith basis for needing the audio recording of the<br>proceeding, the defendant has failed to demonstrate his entitlement to such audio recording.<br>Accordingly the court hereby DENIES the motion"               | <a href="#">Image</a>     |
| 06/02/2017 | Endorsement on Motion to Compel, (#114.0): DENIED<br>As Endorsed<br>(Endorsements of P#112,113,114 Sent to Deft Pro Se and ADA K.Leary)  | <a href="#">Image</a>     |
| 06/08/2017 | Endorsement on Motion for Subpoena Duces Tecum, (#115.0): DENIED<br>as Endorsed<br>(Copy to Defendant Pro-Se)  | <a href="#">Image</a>     |
| 06/12/2017 | Pro Se Defendant 's Motion for Post Conviction Discovery<br>Filed<br>(Copy with Docket to Giles, J)  | 116                       |
| 06/15/2017 | Endorsement on Motion for PostConviction Discovery, (#116.0): DENIED<br>As Endorsed<br>(Copy to Deft Pro Se and ADA Leary)   | <a href="#">Image</a>     |
| 06/19/2017 | Notice of docket entry received from Supreme Judicial Court<br>Judgement: As on File   | 117                       |
| 08/07/2017 | Notice of docket entry received from Supreme Judicial Court<br>Order: As On File (Lenk,J)  | 118 <a href="#">Image</a> |
| 08/22/2017 | Transcript received  |                           |

|            |   |     |                       |
|------------|---|-----|-----------------------|
|            | From Nancy McCann re: 5/31/16   |     |                       |
| 08/30/2017 | Notice of docket entry received from Supreme Judicial Court<br>JUDGEMENT: Denying Relief Under c.211 s.3 Without a Hearing.(Cypher,J)   | 119 | <a href="#">Image</a> |
| 09/13/2017 | Pro Se Defendant 's Motion for a Free Transcript and CD<br>Filed<br>(Copy with Docket sent to Giles,J)  | 120 |                       |
| 09/13/2017 | Pro Se Defendant 's Motion for Reconsideration with Affidavit in Support<br>Filed<br>(Copy with Docket sent to Giles,J)   | 121 |                       |
| 09/19/2017 | Pro Se Defendant 's Petition for Writ of Habeas Corpus Ad Testificandum<br>Filed<br>(copy with Docket sent to Giles,J)  | 122 |                       |
| 10/06/2017 | Notice of docket entry received from Supreme Judicial Court<br>Order: as on file (Cypher,J)<br>Motion to unimpound material in the Superior matter Denied   | 123 | <a href="#">Image</a> |
| 10/30/2017 | General correspondence regarding Letter Received from Mr Dew re: Missing Audio CDs of May31st<br>2016 and June 1st 2016   | 124 |                       |
| 11/09/2017 | Defendant 's Motion (Post Conviction) for Discovery in the Hands of the Prosecution Pursuant to<br>Mass.R.Crim.P.30(b)(c)(4)<br>w/ Affidavit in Support<br>(Sent to Giles, J)   | 125 |                       |
| 11/09/2017 | Defendant 's Motion for a New Trial Pursuant to Mass. R.Crim.P.30(b) and Base on newly<br>Discovered/Newly Available Evidence<br>filed w/ Memorandum of Law in Support of Defendants Post Conviction Motion to Suppress Evidence<br>Based on Newly Discovered Available Evidence and Motion for a Newtrial and/or Motion to Dismiss the<br>Instant Indictment Forthwith<br>(Copy sent to Giles,J) | 126 |                       |
| 11/09/2017 | Defendant 's Request for a Hearing on a matter of taking Judicial Notice of an Agency Adjudicated<br>Record<br>Filed<br>(copy to Giles J)   | 127 |                       |
| 11/20/2017 | Pro Se Defendant 's Petition for Writ of Habeas Corpus ad Testificandum<br>Filed<br>(Copy sent to Giles,J w/ Docket)  | 128 |                       |
| 11/21/2017 | Pro Se Defendant 's Motion for Appointment of Counsel<br>Filed<br>(Copy with Docket and Exhibits A-H sent to Giles,J)   | 129 |                       |
| 11/27/2017 | Pro Se Defendant 's Motion for Process to issue and for Service of Process at the Expense of the<br>Commonwealth<br>Filed<br>(Copy with Docket to Giles,J)  | 130 |                       |
| 11/29/2017 | Endorsement on Motion for a Free Transcript and CD, (#120.0): ALLOWED<br>(Copy of Endorsement sent to Deft Pro-Se and K.Leary,A.D.A.)<br><br>Judge: Giles, Hon. Linda E   |     | <a href="#">Image</a> |
| 11/29/2017 | Endorsement on Petition for Writ of Habeas Corpus Ad Testificandum, (#122.0): DENIED<br>as Moot<br><br>Judge: Giles, Hon. Linda E   |     | <a href="#">Image</a> |
| 11/29/2017 | Endorsement on Motion for Discovery in the Hands of the Prosecution Pursuant to<br>Mass.R.Crim.P.30(b)(c)(4), (#125.0): DENIED<br>as Endorsed<br><br>Judge: Giles, Hon. Linda E   |     | <a href="#">Image</a> |
| 11/29/2017 | Endorsement on Request for a Hearing on a Matter of Taking Judicial Notice of an Agency Adjudicated<br>Record, (#127.0): DENIED<br>as Endorsed  |     | <a href="#">Image</a> |

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|------------|--|---------------------------|
|            | Judge: Giles, Hon. Linda E   |                           |
| 11/29/2017 | Endorsement on Petition for Writ of Habeas Corpus Ad Testificandum, (#128.0): DENIED as Moot   | <a href="#">Image</a>     |
|            | Judge: Giles, Hon. Linda E   |                           |
| 11/29/2017 | Endorsement on Motion for Appointment of Counsel, (#129.0): DENIED as endorsed<br>(ALL ENDORSEMENTS ON 11/29 SENT TO DEFENDANT PRO SE AND K.LEARY,ADA)   | <a href="#">Image</a>     |
|            | Judge: Giles, Hon. Linda E   |                           |
| 11/29/2017 | The following form was generated:<br>A Clerk's Notice was generated and sent to:<br>Attorney: Kathryn Leary, Esq.  |                           |
| 11/30/2017 | Endorsement on Motion for Process to Issue and for Service of Process at the Expense of the Commonwealth, (#130.0): DENIED as Endorsed   | <a href="#">Image</a>     |
|            | Judge: Giles, Hon. Linda E   |                           |
| 01/10/2018 | Commonwealth's Notice of Appearance Filed  | 131                       |
| 01/29/2018 | General correspondence regarding Defendant pro Se was Sent Audio CD of 5/31 and 6/1 Plea Dates   |                           |
| 01/31/2018 | Court Reporter OTS/JAVS is hereby notified to prepare one copy of the transcript of the evidence of 12/30/2015 09:00 AM Hearing RE: Discovery Motion(s)  |                           |
| 02/20/2018 | Notice of docket entry received from Supreme Judicial Court<br>Judgement: Denying relief under c.211, s.3 Without a Hearing (Lowy,J)   | 132 <a href="#">Image</a> |
| 02/22/2018 | General correspondence regarding Letter Received from Anthony Dew<br>(Copy with Docket to Giles, J)  | 133 <a href="#">Image</a> |
| 02/22/2018 | The following form was generated:  |                           |
| 02/22/2018 | The following form was generated:<br><br>Clerk's Notice<br>Sent On: 02/22/2018 14:48:48  |                           |
| 02/28/2018 | Court received Notice of Appeal to the Full Court related to appeal  | 134                       |
| 02/28/2018 | Notice of Entry of appeal received from the Supreme Judicial Court<br>Received notice from the SJC Clerks Office   | 135                       |
| 03/12/2018 | General correspondence regarding Letter Received from Deft ProSe Regarding Missing Audio<br>(Copied and Sent to Court Report Nancy McCann)   | 136                       |
| 03/14/2018 | Transcript received<br>12/30/15 Change of Plea from OTS  |                           |
| 03/21/2018 | Endorsement on Motion for a New Trial Pursuant to Mass.R.Crim.P. 30(b) and Based on Newly Discovered/Newly Available Evidence, (#126.0): DENIED<br>Because the Defendant Has Failed to File an Affidavit with his motion, See Mass.R.Crim.P. 30(c)(3)<br>(Copy to Deft Pro Se and H.Armstrong,ADA) | <a href="#">Image</a>     |
|            | Judge: Giles, Hon. Linda E   |                           |
| 03/26/2018 | Affidavit filed by Self-Represented Defendant Anthony James Dew in support of<br>and Memorandum of Law in Support of Defendants Motion to Withdraw Guilty Plea and for a New Trial<br>(Copy with Docket to Giles,J)  | 137                       |
| 04/03/2018 | MEMORANDUM & ORDER:<br><br>on Defendants Motion for a New Trial Pursuant to Mass.R.Crim.P.30(b) and Based on Newly Discovery/Newly Available Evidence<br><br>Judge: Giles, Hon. Linda E<br><br>(Copy to Deft Pro Se and H.Armstrong,ADA)   | 138 <a href="#">Image</a> |

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|------------|---|-----|-----------------------|
|            | Judge: Giles, Hon. Linda E  |     |                       |
|            | Judge: Giles, Hon. Linda E  |     |                       |
| 04/17/2018 | Notice of appeal filed.<br>Appealing Paper 138 that Denies His Motion for New Trial<br><br>Applies To: Dew, Anthony James (Defendant)   | 139 | <a href="#">Image</a> |
| 04/30/2018 | Appeal: notice of assembly of record sent to Counsel<br>Sent to J Zanini, A.D.A. and Anthony Dew Pro-Se   |     |                       |
| 04/30/2018 | Appeal: Statement of the Case on Appeal (Cover Sheet).  | 140 |                       |
| 05/03/2018 | Attorney appearance<br>On this date Houston Armstrong, Esq. dismissed/withdrawn as Attorney for the Commonwealth for<br>Prosecutor Commonwealth   |     |                       |
| 05/16/2018 | Pro Se Defendant 's Petition for a Bail Hearing<br>Filed  | 141 | <a href="#">Image</a> |
| 08/17/2018 | Notice of Entry of appeal received from the Appeals Court   | 142 | <a href="#">Image</a> |
| 09/10/2018 | General correspondence regarding Letter from Anthony Dew to Judge Kenneth W. Salinger<br>9/18/18 Endorsement on Letter:<br><br>DENIED. For the reasons stated in the prior decision dated October 27, 2015, Carpenter v. United States does not apply to the facts of this case and no warrant was required to require GPS monitoring as a condition of pre-trial probation or to share those GPS records with the police. Salinger, J. (copy to Defendant, Anthony Dew)<br><br>Judge: Salinger, Hon. Kenneth W | 143 |                       |
| 12/10/2018 | Notice of docket entry received from Supreme Judicial Court<br>Judgment after rescript, Judgment affirmed. Lemk J.<br>(Copy sent to Defendant Pro-se) (Faxed to probation)  | 144 | <a href="#">Image</a> |
| 05/31/2019 | Pro Se Defendant 's Motion to Terminate the 7 Years of Probation and Request a Full Hearing Date  | 145 | <a href="#">Image</a> |
| 06/19/2019 | Pro Se Defendant 's Motion for 278A post-conviction access to forensic and scientific analysis testing<br>filed with affidavit in support thereof (Copy with docket sheets sent to Giles, J.)   | 146 | <a href="#">Image</a> |
| 07/05/2019 | General correspondence regarding Letter from defendant Anthony Dew regarding correction of a<br>docket entry filed  | 147 | <a href="#">Image</a> |
| 07/17/2019 | Endorsement on Motion for 278A post conviction access to forensic and scientific analysis testing,<br>(#146.0): No Action Taken<br>" The Commonwealth shall have Thirty (30) Days within which to respond to this motion". Giles, J.  |     | <a href="#">Image</a> |
| 07/19/2019 | General correspondence regarding Letter of Response to Defendant's Request for ReView of<br>Sentence P#147. Filed<br>Mailed to Defendant Anthony Dew  | 148 | <a href="#">Image</a> |
| 07/29/2019 | Order of Notice returned to court: UNSERVED<br>Clerk's Notice RE: Endorsement on (#146.0), returned. "Dew, Andrew Inmate Not".  |     |                       |
| 07/29/2019 | Pro Se Defendant 's Motion for appoint of counsel 278A / 5 filed (Copy with docket sheets sent to<br>Giles, J.)   | 149 | <a href="#">Image</a> |
| 08/08/2019 | General correspondence regarding Pro Se Defendant's request to recieve copy of endorsement on<br>paper #146.  | 150 | <a href="#">Image</a> |
| 08/09/2019 | General correspondence regarding Letter from Defendant, Anthony Dew address to the Hon. Peter B.<br>Krupp dated 7/24/19 - Filed   | 151 | <a href="#">Image</a> |
| 08/12/2019 | Endorsement on Motion for appoint of counsel 278A / 5 filed, (#149.0): DENIED<br>"Finding no basis on this record for the appointment of counsel pursuant to G.L.c. 278A, sec. 5, the<br>court hereby DENIES the Motion." L. Giles, J (8/12/19)<br>(Notice with copy of endorsement sent to H. Armstrong, ADA and Pro Se)   |     | <a href="#">Image</a> |
| 08/16/2019 | Opposition to paper #146.0 Pro-Se Defendant's motion for 278A post-conviction access to forensic and<br>scientific analysis testing filed (Copy with docket sheets sent to Giles, J.) filed by Commonwealth   | 152 |                       |
| 08/19/2019 | Pro Se Defendant 's Petition for Writ of Habeas Corpus Ad Testificandum filed (Copy with docket<br>sheets sent to Giles, J.)  | 153 | <a href="#">Image</a> |

|            |  |     |                       |
|------------|--|-----|-----------------------|
| 09/23/2019 | Rescript received from Appeals Court; judgment AFFIRMED Order denying motion for new trial affirmed.<br>(Faxed to probation)   | 154 | <a href="#">Image</a> |
| 09/25/2019 | Pro Se Defendant 's Request for docket sheets filed (Docket sheets sent to defendant, Pro Se)  | 155 | <a href="#">Image</a> |
| 10/10/2019 | Pro Se Defendant 's Reply to Commonwealth's opposition to defendant's motion for 278A post conviction access to forensic and scientific analysis testing filed (Copy with docket sheets sent to Giles, J.)   | 156 | <a href="#">Image</a> |
| 10/31/2019 | Pro Se Defendant 's Request for docket sheets filed (Docket sheets sent to Pro-Se Defendant)   | 157 | <a href="#">Image</a> |
| 11/04/2019 | Endorsement on Motion for 278A post conviction access to forensic and scientific analysis testing, (#146.0): DENIED<br>"After consideration, the motion is hereby DENIED for the reason set forth in the opposition." (Giles, J.)<br>(Notice with copy of endorsement sent to H. Armstrong, ADA and Defendant Pro Se)  |     | <a href="#">Image</a> |
| 11/04/2019 | Endorsement on Petition for writ of Habeas Corpus As Testificandum, (#153.0): DENIED<br>"The motion/petition is hereby DENIED as moot." (Giles, J.)<br>(Notice with copy of endorsement sent to H. Armstrong, ADA and Pro Se)  |     | <a href="#">Image</a> |
| 11/04/2019 | The following form was generated:<br>A Clerk's Notice was generated and sent to:<br>Defendant: Anthony James Dew<br>Attorney: Houston Armstrong, Esq.  |     |                       |
| 11/04/2019 | The following form was generated:<br>A Clerk's Notice was generated and sent to:<br>Defendant: Anthony James Dew<br>Attorney: Houston Armstrong, Esq.  |     |                       |
| 11/08/2019 | Pro Se Defendant 's Request for update on 278A Motion filed (Copy of endorsement of 278A Motion sent to defendant on 11/4/19)  | 158 | <a href="#">Image</a> |
| 11/18/2019 | Pro Se Defendant 's Notice of appeal of denied motion: 278A post conviction access to forensic and scientific analysis testing filed (Copy with docket sheets sent to Giles, J.)   | 159 | <a href="#">Image</a> |
| 11/27/2019 | Notice of assembly of record sent to Counsel<br><br>Applies To: Dew, Anthony James (Defendant); Campbell, Esq., Cailin (Attorney) on behalf of Commonwealth (Prosecutor)   |     | <a href="#">Image</a> |
| 11/27/2019 | Notice to Clerk J. Stanton of the Appeals Court of Assembly of Record  |     | <a href="#">Image</a> |
| 11/27/2019 | Appeal: Statement of the Case on Appeal (Cover Sheet).   | 160 | <a href="#">Image</a> |
| 12/04/2019 | Appeal entered in Appeals Court on 11/27/2019 docket number 2019-P-1696  | 161 | <a href="#">Image</a> |
| 12/04/2019 | Pro Se Defendant 's Request for a copy of the assembly of the record, a list of all exhibits and a completed appellate court entry statement filed (Notice of assembly of record sent to defendant on 11/27/19)  | 162 |                       |
| 12/05/2019 | Endorsement on Motion to terminate the 7 years of probation and request full hearing, (#145.0): DENIED<br>"The motion is hereby DENIED as wholly unwarranted. (The case was disposed by an agreed upon plea and unsubstantiated. (i.e. the defendant bold assertion as for a "fraud on the court")." (Giles, J.)<br>(Notice with copy of endorsement sent to H. Armstrong, ADA and Pro Se) |     |                       |
| 12/05/2019 | The following form was generated:<br>A Clerk's Notice was generated and sent to:<br>Defendant: Anthony James Dew<br>Attorney: Houston Armstrong, Esq.  |     |                       |
| 04/30/2020 | Pro Se Defendant 's EMERGENCY Motion for Stay of Sentence and Memorandum of Law in Support Thereof, with affidavit in support thereof (filed)  | 163 | <a href="#">Image</a> |
| 05/06/2020 | ORDER: Order of Transfer received from the SJC, SJ-2020-277<br>(E-mail copy sent to Giles, J.)   | 164 | <a href="#">Image</a> |
| 05/08/2020 | General correspondence regarding Letter received from Pro-Se Defendant asking that a copy of P#163 (Emergency motion for Stay of Sentence with Memorandum of Law) be sent to ADA H. Armstrong<br>Copy of letter and P# 163 sent to ADA H. Armstrong  | 165 | <a href="#">Image</a> |

|            |   |     |                       |
|------------|---|-----|-----------------------|
| 05/08/2020 | The following form was generated:<br>A Clerk's Notice was generated and sent to:<br>Attorney: Houston Armstrong, Esq.<br>Holding Institution: MCI - Norfolk   |     |                       |
| 05/11/2020 | Endorsement on Motion to stay sentence EMERGENCY, (#163.0): DENIED<br>(See Order P#166)   |     |                       |
| 05/11/2020 | MEMORANDUM & ORDER:<br><br>Defendant's Motion for Stay of Sentence<br>(E-mail copy sent to ADA H. Armstrong and mailed a copy to defendant)<br><br>Judge: Giles, Hon. Linda E   | 166 | <a href="#">Image</a> |
| 05/11/2020 | Notice of docket entry received from Supreme Judicial Court<br>"ORDER OF TRANSFER: as on file." (Lowy, J).  | 167 | <a href="#">Image</a> |
| 05/11/2020 | Opposed Motion for Rebuttable Presumption of Release (COVID19)<br><br>Pro Se Defendant files: "Petition for Early Release Due to Covid-19"<br>(File received from Supreme Judicial Court)   | 168 | <a href="#">Image</a> |
| 06/04/2020 | <p>Notice of docket entry received from Appeals Court</p> <p>ORDER: (RE#12) On June 1, 2016, the defendant pleaded guilty to five counts of trafficking a person for sexual servitude, two counts of assault and battery by means of a dangerous weapon, one count of assault and battery, and nine counts of distribution of a controlled substance. He was sentenced to serve eight to ten years in state prison, followed by seven years of probation. On November 9, 2017, the defendant filed a motion for new trial, which was ultimately denied. That denial was affirmed on appeal by a panel of this court, Commonwealth v. Dew, 95 Mass. App. Ct. 1116 (2019), and further appellate review was denied. On June 19, 2019, the defendant filed a post-conviction motion pursuant to G. L. c. 278A, seeking DNA testing. That motion was denied on November 4, 2019, and the defendant filed a timely notice of appeal on November 18, 2019. His appeal is currently pending in this court.</p> <p>On April 30, 2020, based on the Supreme Judicial Court's decision in <i>Christie v. Commonwealth</i>, 484 Mass. 397 (2020), the defendant filed in the trial court an emergency motion to stay execution of his sentence pursuant to Mass. R. Crim. P. 31(a).[1] That motion was denied by a judge, who was the plea judge, in a detailed written memorandum dated May 11, 2020. The judge concluded that the defendant had not identified an issue worthy of appellate review, that he poses a risk of danger to others and of flight were he to be released, and that he does not have any particular age or health factors that would heighten his risk of serious illness or death should he contract COVID-19. The defendant is currently incarcerated at MCI-Norfolk.</p> <p>Now before me is the defendant's emergency motion for stay of execution of his sentence pursuant to Mass. R.A.P. 6. "The power to stay a sentence pending appeal 'may be exercised by the sentencing judge, by a single justice of the Appeals Court, or by a single justice of [the Supreme Judicial Court].'" <i>Christie v. Commonwealth</i>, 484 Mass. at 400, quoting <i>Commonwealth v. Allen</i>, 378 Mass. 489, 496 (1979). "When considering the merits of a motion to stay the execution of a sentence, a judge should consider two factors. First is whether the appeal presents 'an issue which is worthy of presentation to an appellate court, one which offers some reasonable possibility of a successful decision in the appeal.'" <i>Commonwealth v. Allen</i>, 378 Mass. 489, 498 (1979), quoting <i>Commonwealth v. Levin</i>, 7 Mass. App. Ct. 501, 504 (1979). See <i>Commonwealth v. Cohen</i> (No. 2), 456 Mass. 128, 132 (2010). Second, the judge should consider 'the possibility of flight to avoid punishment; potential danger to any other person or to the community; and the likelihood of further criminal acts during the pendency of the appeal.' <i>Commonwealth v. Hodge</i> (No. 1), 380 Mass. 851, 855 (1980)." <i>Christie</i>, 484 Mass. at 400. "In ordinary times, in considering the second factor, a judge should focus on the danger to other persons and the community arising from the defendant's risk of reoffense. See <i>Cohen</i>, 456 Mass. at 132; <i>Hodge</i>, 380 Mass. at 855. In these extraordinary times, a judge deciding whether to grant a stay should consider not only the risk to others if the defendant were to be released and reoffend, but also the health risk to the defendant if the defendant were to remain in custody. In evaluating this risk, a judge should consider both the general risk associated with preventing COVID-19 transmission and minimizing its spread in correctional institutions to inmates and prison staff and the specific risk to the defendant, in view of his or her age and existing medical conditions, that would heighten the chance of death or serious illness if the defendant were to contract the virus." <i>Christie</i>, 484 Mass. at 401-402. Whether presented in the trial court, or here, the decision whether to grant a stay is within the sound discretion of the judge or justice. <i>Cohen</i> (No. 2), 456 Mass. at 132.</p> <p>The defendant argues that the denial of his post-conviction motion for forensic DNA testing raises several issues worthy of presentation on appeal. He has not identified those issues in his Rule 6 motion, but I have reviewed his opening brief in the appeal, where he identifies the following three</p> | 169 |                       |

issues. First, he argues that the judge should have recused herself. Second, he argues that his motion seeking DNA testing should have been allowed to establish his factual innocence regarding certain controlled drug buys. Third, he argues that the search warrant was invalid because it was based on fabricated evidence concerning the drug buys. As to the second prong of the stay analysis, the defendant argues that he does not pose a risk to others or of flight, and he proposes that he be released to live with family members. Finally, although the 38-year-old defendant has not identified any particular medical condition that heightens his risk of serious illness or death should he contract COVID-19, he argues that there is a general risk to all inmates and that he is unable to protect himself from that general risk because it is not possible to socially distance himself from others. In response to my order, the Commonwealth 5 has filed a response in which it includes information showing that, as of May 25, 2020, there are 1,251 inmates housed at MCI-Norfolk, of which 9 have been tested for COVID-19, with one positive result. In addition, there have been 5 confirmed cases among correctional officers, with one test having been administered.

I have considered the materials submitted by the parties, including the materials that were filed below. As I have stated above, I have also considered the defendant's brief in the pending appeal. I have also considered the motion judge's decision. I have considered the arguments the defendant raises on appeal, as well as the factual and procedural context in which they must be placed. I have considered the defendant's criminal history, which includes crimes of violence, as well as the nature and severity of the crimes to which he pleaded guilty in the current case. I have considered the length of the defendant's sentence, as well as how much of it remains to be served. I have taken into account the trial judge's assessment of the defendant's risk to others and of flight were he to be released. "[S]ecurity considerations 'involve determinations of fact and the exercise of sound, practical judgment, and common sense' and [ ] the 'exercise of discretion by the trial court judge will be upheld unless it is shown that he abused that discretion.'" Commonwealth v. Cohen, 456 Mass. 128, 132 (2010), 6 quoting Commonwealth v. Hodge (No. 1), 380 Mass. 851, 855 (1980). I discern no abuse of discretion here. I have considered that neither the defendant's age nor his medical history heightens his risk of serious illness or death from COVID-19, while at the same time I have accepted that, because he is incarcerated, the defendant is at a general risk of infection. That said, I have placed those considerations within the context of the small number of confirmed cases at MCI-Norfolk, and that no cases among inmates has been recorded since April 19, 2020. I acknowledge that -- unlike at other facilities -- there has been minimal testing done at MCI-Norfolk as of May 24, 2020. I have also considered the defendant's plan upon release, which is to return to his family on personal recognizance. Taking all of these considerations into account, I conclude that the trial judge did not abuse her discretion in denying the motion to stay and, after exercising my independent review and discretion, I reach the same conclusion here. So ordered. (Wolohojian, J.).

Footnotes:

[1] Before then, on April 27, 2020, the defendant had filed a G. L. c. 211, § 3 petition with the single justice of the Supreme Judicial Court seeking a stay. The matter was transferred to the trial court to decide in the first instance.

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| 06/26/2020 | Notice of docket entry received from Supreme Judicial Court<br>Judgement: "...I deny the defendant's petition for G.L. c. 211, sec. 3, and order the entry of judgment accordingly." (Lowy, J.)                | 170 | <a href="#">Image</a> |
| 06/29/2020 | Notice of docket entry received from Appeals Court<br>"RE#23: The first step in the standing order shall issue forthwith."   | 171 | <a href="#">Image</a> |
| 06/29/2020 | Court received Notice Preceding Dismissal related to appeal  | 172 | <a href="#">Image</a> |
| 06/30/2020 | Notice of docket entry received from Appeals Court<br>" RE#24: Allowed to 08/04/2020. "  | 173 | <a href="#">Image</a> |
| 07/01/2020 | Notice of docket entry received from Appeals Court<br>"RE#21: No action necessary. See single justice's 05/29/2020 order. (Hand, J.)."   | 174 | <a href="#">Image</a> |
| 07/06/2020 | Notice of docket entry received from Appeals Court<br>"RE#22: Denied without prejudice to the defendant pursuing any administrative remedies that may be available pursuant to G.L. c. 66, s. 10. (Hand, J.)." | 175 | <a href="#">Image</a> |
| 10/20/2020 | General correspondence regarding Defendant filed Pro Se Letter. ( Notice and Docket sheets sent to Roach,RAJ).   | 176 | <a href="#">Image</a> |
| 10/21/2020 | Endorsement on Defendant's Pro Se Letter, (#176.0): No Action Taken<br>"No action taken by the Court".<br><br>Notice and copy of endorsement sent to A. Dew, Pro Se Defendant                                  |     | <a href="#">Image</a> |
| 10/28/2020 | The following form was generated:<br>A Clerk's Notice was generated and sent to:<br>Defendant: Anthony James Dew MCI Norfolk 2 Clark Street PO Box 43, Norfolk, MA 02056                                       |     |                       |

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| 12/31/2020 | General correspondence regarding Letter from the defendant regarding a request for 504 days of jail credit.   | 177 | <a href="#">Image</a> |
| 01/04/2021 | General correspondence regarding Letter to Mr. Dew regarding his request for jail credit.   | 178 | <a href="#">Image</a> |
| 01/11/2021 | Pro Se Defendant 's Motion for a Free CD Transcript and Audio of Dated 2/19/2016. Filed (Copy of Motion and Docket Sheets Sent to Ullmann, RAJ)   | 179 | <a href="#">Image</a> |
| 01/13/2021 | Endorsement on Motion for a Free CD Transcript and Audio of Dated 2/19/2016, (#179.0): DENIED "Denied without prejudice. Defendant offers no reason for needing the records".<br><br>Notice and copy of endorsement sent to A. Dew, Pro Se Defendant, H. Armstrong, ADA, and C. Campbell, ADA   |     | <a href="#">Image</a> |
| 01/14/2021 | The following form was generated:<br>A Clerk's Notice was generated and sent to:<br>Defendant: Anthony James Dew MCI Norfolk 2 Clark Street PO Box 43, Norfolk, MA 02056<br>Prosecutor, Attorney: Cailin Campbell, Esq. Suffolk County District Attorney's Office 1 Bulfinch Place Third Floor, Boston, MA 02114<br>Prosecutor, Attorney: Houston Armstrong, Esq. Suffolk County District Attorney's Office 1 Bulfinch Place, Boston, MA 02114  |     |                       |
| 01/20/2021 | Rescript received from Appeals Court; judgment AFFIRMED Order denying defendant's motion for c.278A forensic testing is affirmed.. (Faxed to Probation)   | 180 | <a href="#">Image</a> |
| 02/08/2021 | Pro Se Defendant 's Motion for Reconsideration of the denial of pretrial release of GPS filed with letter addressed to Kenneth Salinger, J., certificate of service and exhibits (Copy with notice and docket sheets sent to Salinger, J.)  | 181 | <a href="#">Image</a> |
| 02/17/2021 | MEMORANDUM & ORDER:<br><br>on Pro Se Defendant 's Motion for Reconsideration of the denial of pretrial release of GPS<br><br>Judge: Salinger, Hon. Kenneth W  | 182 | <a href="#">Image</a> |
| 02/18/2021 | The following form was generated:<br>A Clerk's Notice was generated and sent to:<br>Defendant, Attorney: Richard M Doyle, Jr., Esq. Attorney at Law 875 Massachusetts Ave Suite 32, Cambridge, MA 02139<br>Prosecutor, Attorney: Cailin Campbell, Esq. Suffolk County District Attorney's Office 1 Bulfinch Place Third Floor, Boston, MA 02114<br>Prosecutor, Attorney: Houston Armstrong, Esq. Suffolk County District Attorney's Office 1 Bulfinch Place, Boston, MA 02114<br>Holding Institution: MCI - Norfolk 2 Clark Street PO Box 43, Norfolk, MA 02056 |     |                       |
| 02/18/2021 | The following form was generated:<br>A Clerk's Notice was generated and sent to:<br>Defendant: Anthony James Dew MCI Norfolk 2 Clark Street PO Box 43, Norfolk, MA 02056  |     |                       |
| 03/16/2021 | General correspondence regarding Defendants Letter Requesting Paper #49 and Paper #46. Recieved   | 183 |                       |
| 07/02/2021 | Pro Se Defendant 's Motion for new trial (with affidavit) filed. (copy of docket sheet, notice and motion and sent to RAJ ( Hon. R. Ullmann)  | 184 | <a href="#">Image</a> |
| 07/09/2021 | Endorsement on Motion for new trial , (#184.0): Other action taken 7/9/21- "Commonwealth to respond by 9/17/21"- Ullmann, RAJ<br><br>(Copy of the endorsement sent to the Defendant and Cailin Campbell, ADA and Houston Armstrong, ADA)  |     | <a href="#">Image</a> |
| 07/12/2021 | The following form was generated:<br>A Clerk's Notice was generated and sent to:<br>Defendant: Anthony James Dew<br>Prosecutor, Attorney: Cailin Campbell, Esq. Suffolk County District Attorney's Office 1 Bulfinch Place Third Floor, Boston, MA 02114<br>Prosecutor, Attorney: Houston Armstrong, Esq. Suffolk County District Attorney's Office 1 Bulfinch Place, Boston, MA 02114  |     |                       |
| 07/22/2021 | General correspondence regarding Defendant's Pro Se letter requesting a hearing. filed (Clerk's notice, docket sheets and copy of letter sent to Judge Ullmann)   | 185 | <a href="#">Image</a> |
| 07/22/2021 | The following form was generated:   |     |                       |

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|            | Clerk's Notice<br>Sent On: 07/22/2021 15:11:21   |                             |
| 07/23/2021 | Endorsement on Motion for a Hearing, (#185.0): No Action Taken<br>Commonwealth has been ordered to respond to defendant's new trial motion by 9/17/21, filed<br>(Copy of endorsement and notice sent to defendant pro se, ADA Armstrong, and ADA Campbell)   | <a href="#">Image</a>       |
| 07/26/2021 | The following form was generated:<br>A Clerk's Notice was generated and sent to:<br>Defendant: Anthony James Dew MCI Norfolk 2 Clark Street PO Box 43, Norfolk, MA 02056<br>Prosecutor, Attorney: Cailin Campbell, Esq. Suffolk County District Attorney's Office 1 Bulfinch Place<br>Third Floor, Boston, MA 02114<br>Prosecutor, Attorney: Houston Armstrong, Esq. Suffolk County District Attorney's Office 1 Bulfinch<br>Place, Boston, MA 02114 |                             |
| 07/26/2021 | Affidavit of Anthony Dew, filed<br>(Copy of affidavit, docket sheets and Clerks Notice sent to Ullmann RAJ)  | 186                         |
| 07/26/2021 | Edward B Gaffney, Esq.'s Notice of Appearance, filed   | 186.1 <a href="#">Image</a> |
| 07/26/2021 | Attorney appearance<br>On this date Edward B Gaffney, Esq. added for Defendant Anthony James Dew   |                             |
| 07/26/2021 | Defendant 's Motion for funds to hire a private investigator pursuant to Mass.R.Crim.P. 309(c) (5), filed<br>(copy of motion, affidavits, docket sheets and notice sent to Ullmann, J.)  | 187 <a href="#">Image</a>   |
| 07/26/2021 | Affidavit of Edward B. Gaffney, filed<br>(Copy of affidavit, docket sheets, and Clerks Notice sent to Ullmann RAJ)   | 188                         |
| 07/26/2021 | Attorney appearance<br>On this date Richard M Doyle, Jr., Esq. dismissed/withdrawn as Appointed - Indigent Defendant for<br>Defendant Anthony James Dew  |                             |
| 07/27/2021 | Endorsement on Motion for Funds to Hire a Private Investigator Pursuant to Mass.R.Crim.P. 30(c)(5),<br>(#187.0): ALLOWED<br>Subject to CJA rules and CPCS Protocols. Counsel should obtain online postings from CPCS to avoid<br>duplication of effort, filed.<br>(Copy of endorsement and motion sent to Attorney Gaffney, ADA Campbell and ADA Armstrong)  | <a href="#">Image</a>       |
| 07/29/2021 | The following form was generated:<br>A Clerk's Notice was generated and sent to:<br>Defendant, Attorney: Edward B Gaffney, Esq. Box 1272, Framingham, MA 01701<br>Prosecutor, Attorney: Cailin Campbell, Esq. Suffolk County District Attorney's Office 1 Bulfinch Place<br>Third Floor, Boston, MA 02114<br>Prosecutor, Attorney: Houston Armstrong, Esq. Suffolk County District Attorney's Office 1 Bulfinch<br>Place, Boston, MA 02114           |                             |
| 08/12/2021 | Pro Se Defendant 's Motion to stay sentence pending new trial motion and be admitted to GPS, filed.<br>(Notice sent to Ullmann, J with copy of motion and docket sheets).  | 189 <a href="#">Image</a>   |
| 08/18/2021 | Affidavit of Anthony Dew, filed<br>(copy, notice and docket sheets sent to Ullmann (RAJ))  | 190                         |
| 08/18/2021 | Endorsement on Affidavit of Anthony Dew, (#186.0): No Action Taken<br>See paper #188<br><br>(Copy of endorsement and notice sent to defendant pro se, ADA Armstrong, and ADA Campbell)   |                             |
| 08/18/2021 | Endorsement on Motion for early release, (#189.0): DENIED<br>See paper #169 Defendants COVID-19 arguments are weaker than those rejected in June 2020. The<br>court further notes that defendant has appointed counsel who is actively litigating defendants post-<br>conviction matters.<br><br>(Copy of endorsement and notice sent to defendant pro se, ADA Armstrong, and ADA Campbell)  |                             |
| 08/19/2021 | The following form was generated:<br>A Clerk's Notice was generated and sent to:<br>Defendant: Anthony James Dew MCI Norfolk 2 Clark Street PO Box 43, Norfolk, MA 02056<br>Prosecutor, Attorney: Cailin Campbell, Esq. Suffolk County District Attorney's Office 1 Bulfinch Place<br>Third Floor, Boston, MA 02114<br>Prosecutor, Attorney: Houston Armstrong, Esq. Suffolk County District Attorney's Office 1 Bulfinch<br>Place, Boston, MA 02114 |                             |

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| 08/19/2021 | The following form was generated:<br>A Clerk's Notice was generated and sent to:<br>Defendant: Anthony James Dew MCI Norfolk 2 Clark Street PO Box 43, Norfolk, MA 02056<br>Prosecutor, Attorney: Cailin Campbell, Esq. Suffolk County District Attorney's Office 1 Bulfinch Place<br>Third Floor, Boston, MA 02114<br>Prosecutor, Attorney: Houston Armstrong, Esq. Suffolk County District Attorney's Office 1 Bulfinch Place, Boston, MA 02114 |     |                       |
| 08/23/2021 | Endorsement on Affidavit, (#190.0): No Action Taken<br>(Copy of endorsement and notice sent to defendant pro se, ADA Armstrong, and ADA Campbell)   |     | <a href="#">Image</a> |
| 08/27/2021 | The following form was generated:<br>A Clerk's Notice was generated and sent to:<br>Defendant: Anthony James Dew MCI Norfolk 2 Clark Street PO Box 43, Norfolk, MA 02056<br>Prosecutor, Attorney: Cailin Campbell, Esq. Suffolk County District Attorney's Office 1 Bulfinch Place<br>Third Floor, Boston, MA 02114<br>Prosecutor, Attorney: Houston Armstrong, Esq. Suffolk County District Attorney's Office 1 Bulfinch Place, Boston, MA 02114 |     |                       |
| 09/20/2021 | Pro Se Defendant 's Motion for new trial (for leave to withdraw Guilty Pleas) pursuant to Mass.R.CRIM.P(30)(b) with affidavit, memorandum and exhibits filed<br>(Copy, Notice and Docket sheet sent to Ullmann (RAJ))   | 191 | <a href="#">Image</a> |
| 10/01/2021 | Endorsement on Motion for a New Trial, (#184.0): Other action taken<br>This motion is withdrawn at the defendant's request<br><br>(Copy of endorsement and Clerks Notice sent to Attorney Gaffney and ADA Campbell)   |     | <a href="#">Image</a> |
| 10/04/2021 | The following form was generated:<br>A Clerk's Notice was generated and sent to:<br>Defendant, Attorney: Edward B Gaffney, Esq. Box 1272, Framingham, MA 01701<br>Prosecutor, Attorney: Cailin Campbell, Esq. Suffolk County District Attorney's Office 1 Bulfinch Place<br>Third Floor, Boston, MA 02114   |     |                       |
| 10/15/2021 | Defendant 's Motion for Expedited Ruling on Defendant's Motion to Withdraw Guilty Pleas. Filed<br>(Copy of the Motion and Docket Sheets sent to Ullmann, RAJ)   | 192 | <a href="#">Image</a> |
| 10/20/2021 | Endorsement on Motion for Expedited Ruling, (#192.0): DENIED<br>The Commonwealth's time to respond was based on a motion that defendant has withdrawn.<br>Commonwealth to respond to the pending motion by 11/5/21, After which it will promptly be assigned to a sitting judge. Ullman, RAJ<br>Parties Notified Via Email  |     | <a href="#">Image</a> |
| 10/20/2021 | Attorney appearance<br>On this date Paul B Linn, Esq. added as Attorney for the Commonwealth for Prosecutor Commonwealth  |     |                       |
| 11/10/2021 | Opposition to paper #192.0 to Any Enlargement of Time for Filing of Response by Commonwealth to Defendant's Motion to Withdraw Guilty Pleas with Affidavit. filed by Anthony James Dew<br>(Copy of this Opposition and Docket Sheets sent to Ullmann, RAJ)  | 193 | <a href="#">Image</a> |
| 11/18/2021 | Commonwealth 's Motion for enlargement of time for filing it's opposition to the defendant's motion for a new trial. (filed)<br>(Notice sent Ullmann, RAJ. with P.#194 and docket sheets)   | 194 | <a href="#">Image</a> |
| 11/23/2021 | Endorsement on Motion for an enlargement of time for filing it's opposition to defendant' motion for a new trial., (#194.0): ALLOWED<br>Commonwealth to respond to defendant's new trial motion by 12/06/21. No further extensions absent compelling reasons. Ullmann, RAJ.<br>(Notices sent to ADA Paul Linn and Attorney Edward Gaffney)<br><br>Applies To: Gaffney, Esq., Edward B (Attorney) on behalf of Dew, Anthony James (Defendant)      |     | <a href="#">Image</a> |
| 11/24/2021 | The following form was generated:<br>A Clerk's Notice was generated and sent to:<br>Defendant, Attorney: Edward B Gaffney, Esq. Box 1272, Framingham, MA 01701<br>Prosecutor, Attorney: Paul B Linn, Esq. Suffolk County District Attys Office One Bulfinch Place, Boston, MA 02114   |     |                       |
| 12/07/2021 | Commonwealth 's Response to the Defendant's Motion for a New Trial, filed.<br>(copy of response, docket sheets and Clerks Notice sent to Ullmann RAJ)   | 195 | <a href="#">Image</a> |
| 12/08/2021 | Defendant 's Motion for Immediate Ruling on His Motion for New Trial Because the Commonwealth has   | 196 | <a href="#">Image</a> |

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|            | Failed to Oppose It with affidavits, filed.<br>(copy of motion, docket sheets and Clerks Notice sent to Ullmann RAJ)   |     |                       |
| 01/10/2022 | Habeas Corpus for defendant issued to Souza Baranowski Correctional Center returnable for 01/11/2022 11:00 AM Conference to Review Status. Meeting ID: 160 926 5652 (ZOOM HEARING)<br>Passcode: 668298   | 197 | <a href="#">Image</a> |
| 01/11/2022 | Status conference held before Sanders, J via zoom (Deft present on zoom from Souza)<br>After hearing case continued by agreement to 2/4/2022 at 2:00 for a motion hearing (Zoom habe needed to Souza)<br><br>Out of court filing date of 1/28/22 for the Commonwealth to file brief<br><br>Hon. Janet L Sanders, Presiding<br>Appeared<br>ADA P. Linn, via zoom<br>Atty E. Gafney, via zoom<br>FTR 11:00-11:43<br>Kristen Zitano, Assistant Clerk Magistrate |     |                       |
| 01/31/2022 | Commonwealth 's Supplemental response to the defendants motion for a new trial, filed  | 198 | <a href="#">Image</a> |
| 01/31/2022 | Defendant 's Supplemental memorandum, of law in support of defendants argument that representation by his court appointed plea attorney who was a racist and a religious bigot constituted structural error, filed   | 199 | <a href="#">Image</a> |
| 01/31/2022 | Event Result:: Motion Hearing scheduled on:<br>02/04/2022 02:00 PM<br>Has been: Rescheduled For the following reason: By Court prior to date<br>Hon. Janet L Sanders, Presiding<br>Staff:<br>Kristen Zitano, Assistant Clerk Magistrate  |     |                       |
| 01/31/2022 | Habeas Corpus for defendant issued to Souza Baranowski Correctional Center returnable for 02/02/2022 02:30 PM Motion Hearing. Meeting ID: 160 926 5652 (ZOOM HEARING)<br>Passcode: 668298  | 200 | <a href="#">Image</a> |
| 02/02/2022 | Motion hearing held before Sanders, J via zoom (Deft present on zoom from Souza)<br>After hearing case continued by agreement to 3/18/2022 at 2:00 for a motion hearing Habe to Souza needed<br><br>Hon. Janet L Sanders, Presiding<br>Appeared<br>ADA P. Linn, via zoom<br>Atty E. Gafney, via zoom<br>FTR 2:29-3:11<br>Kristen Zitano, Assistant Clerk Magistrate  |     |                       |
| 03/16/2022 | Habeas Corpus for defendant issued to Souza Baranowski Correctional Center returnable for 03/18/2022 02:00 PM Motion Hearing. TRANSPORT TO COURT   | 201 |                       |
| 03/17/2022 | Defendant 's Assented to Motion to continue, filed   | 202 | <a href="#">Image</a> |
| 03/17/2022 | Endorsement on Motion to continue, (#202.0): ALLOWED<br><br>Judge: Sanders, Hon. Janet L   |     |                       |
| 03/17/2022 | Attorney appearance<br>On this date Melissa Ilg Devore, Esq. added as Appointed - Appellate Action for Defendant Anthony James Dew   |     | <a href="#">Image</a> |
| 03/18/2022 | Event Result:: Motion Hearing scheduled on:<br>03/18/2022 02:00 PM<br>Has been: Canceled For the following reason: Request of Defendant<br>Hon. Janet L Sanders, Presiding<br>Staff:<br>Kristen Zitano, Assistant Clerk Magistrate   |     |                       |
| 05/03/2022 | Habeas Corpus for defendant issued to Souza Baranowski Correctional Center returnable for 05/06/2022 10:00 AM Hearing on Motion for New Trial. TRANSPORT TO COURT  | 203 | <a href="#">Image</a> |
| 05/06/2022 | Defendant brought into Court. Evidentiary Motion for new Trial hearing held before Sanders, J<br>After hearing Motion for New Trial Taken Under Advisement   |     |                       |

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|            | Parties are informed that they may file any supplemental memorandums that may assist the Court<br><br>Hon. Janet L Sanders, Presiding<br>Appeared<br>ADA P. Linn<br>Atty M. Devore<br>FTR 2:09-4:15<br>Kristen Zitano, Assistant Clerk Magistrate  |     |                       |
| 05/06/2022 | List of exhibits   | 204 | <a href="#">Image</a> |
| 05/06/2022 | Witness list<br><br>Applies To: Linn, Esq., Paul B (Attorney) on behalf of Commonwealth (Prosecutor)   | 205 |                       |
| 05/31/2022 | Defendant 's Memorandum of law Re: Burden of persuasion and standard of review applicable to the defendants claim that he was denied his constitutional right to equal protection, filed   | 206 | <a href="#">Image</a> |
| 07/14/2022 | Defendant 's Motion to stay execution of sentence under Mass R Crim P 31, filed (Pro Se filing)  | 207 | <a href="#">Image</a> |
| 07/26/2022 | Endorsement on Motion to stay execution of sentence under Mass R Crim P 31, filed (Pro Se filing), (#207.0): DENIED<br>without prejudice. Defendant is represented by counsel and he should proceed through counsel. In any event, the court has under advisement a motion vacate his plea which should be decided first   |     | <a href="#">Image</a> |
| 07/27/2022 | The following form was generated:<br>A Clerk's Notice was generated and sent to:<br>Defendant, Attorney: Edward B Gaffney, Esq. Box 1272, Framingham, MA 01701<br>Defendant, Attorney: Melissa Ilg Devore, Esq. Ilg and Devore P.C. 54 Church St, Lowell, MA 01852<br>Prosecutor, Attorney: Paul B Linn, Esq. Suffolk County District Attys Office One Bulfinch Place, Boston, MA 02114<br>Prosecutor, Attorney: Cailin Campbell, Esq. Suffolk County District Attorney's Office 1 Bulfinch Place Third Floor, Boston, MA 02114<br>Holding Institution: Souza Baranowski Correctional Center 100 Harvard Rd P.O. Box 8000, Shirley, MA 01464 |     |                       |
| 08/03/2022 | Notice of docket entry received from Appeals Court<br>Order (Re#1) Anthony J. Dew has filed a motion to stay sentence pending appeal. The trial court docket reflects that he is represented by counsel. Where counsel is on record as representing party, only that counsel has authority to make filings in the court for the party, and only those filings will be reviewed and acted on by the court . Anthony J. Dew should direct future inquiries and requests to counsel who can then make appropriate filings. Accordingly, no action will be taken on the within and this matter is closed (Hershfang, J) Notice/Attest            | 208 | <a href="#">Image</a> |
| 08/08/2022 | Affidavit of Edward Gaffney dated 8/4/2022, filed  | 209 |                       |
| 08/29/2022 | MEMORANDUM & ORDER:<br><br>of Decision on defendants motion for new trial<br>Motion DENIED<br><br>Judge: Sanders, Hon. Janet L<br><br>Parties notified via email   | 210 | <a href="#">Image</a> |
| 08/29/2022 | Endorsement on Motion for new trial, (#191.0): DENIED<br>See memo and order Paper #210<br><br>Judge: Sanders, Hon. Janet L   |     |                       |
| 09/06/2022 | Notice of appeal filed by defendant regarding the court's denial of his motion for new trial, filed.   | 211 | <a href="#">Image</a> |
| 09/09/2022 | CD of Transcript of 05/06/2022 02:00 PM Hearing on Motion for New Trial received from Jessica Story, Registered Professional Reporter.<br>(transcripts received via email from Atty E. Gaffney)  |     |                       |
| 09/14/2022 | Appeal: Statement of the Case on Appeal (Cover Sheet).   | 212 | <a href="#">Image</a> |
| 09/14/2022 | Notice to Clerk J. Stanton of the Appeals Court of Assembly of Record  |     | <a href="#">Image</a> |
| 09/14/2022 | Notice of assembly of record sent to Counsel   |     | <a href="#">Image</a> |

09/16/2022 Notice of Entry of appeal received from the Appeals Court  
Docket No. 2022-P-0892

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[Image](#)**Case Disposition**

| <a href="#">Disposition</a> | <a href="#">Date</a> | <a href="#">Case Judge</a> |
|-----------------------------|----------------------|----------------------------|
| Disposed by Plea            | 06/01/2016           | Giles, Hon. Linda E        |

210

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT  
NO. 1584CR10164

COMMONWEALTH

vs.

ANTHONY DEW

**MEMORANDUM OF DECISION AND ORDER  
ON DEFENDANT'S MOTION FOR NEW TRIAL**

This is one of several cases that seek to vacate defendants' convictions based on the claim that their court-appointed counsel Richard Doyle was a racist. This Court has already resolved one of those cases, denying the defendant's motion for new trial. See Memorandum of Decision dated July 8, 2022 in Commonwealth v. Gaines, No. 0284CR11091 (July 8 Gaines Decision). As in Gaines, the claim in the instant case is based exclusively on certain Facebook postings by Doyle, now deceased, between 2014 and 2017. In neither Gaines nor in this matter has the defendant made any attempt to demonstrate that Doyle's views as expressed in those postings had any actual impact on his performance in court. Although the instant case has some factual differences from Gaines, the result is the same. Because the defendant has not satisfied his burden of showing that he received constitutionally ineffective assistance from Doyle as the case law has defined it, and because he not demonstrated any other constitutional violation, his Motion for a New Trial must be **DENIED**.

**BACKGROUND**

A review of the docket and the case file reveals the following. On March 11, 2015, a grand jury returned indictments against the defendant on nineteen charges that included five

counts of human trafficking, rape, two counts of assault and battery with a dangerous weapon (a knife and a shod foot), and multiple charges of possession of heroin and cocaine with intent to distribute. As described in the Joint Pretrial Memorandum, the Commonwealth alleged that the defendant organized and ran a sex trafficking and drug distribution operation out of two apartments in Dorchester between 2014 and January 2015. In particular, he was accused of having four individuals work as prostitutes for him and attempting to persuade another to work as a prostitute in exchange for heroin; he was alleged to have regularly distributed heroin and crack cocaine to multiple people during this time frame as well. Finally, the Commonwealth alleged that the defendant sexually assaulted and beat a transgender person in November 2014. The trafficking charges carry a five year minimum mandatory sentence upon conviction. One of the drug charges (indicted as a subsequent offense) carried a minimum mandatory sentence as well.

Attorney June Jensen was appointed to represent the defendant at his arraignment. A month later, she sought to withdraw, and attorney Joseph Perullo was appointed. Perullo filed a motion to suppress certain evidence (specifically, GPS records) which was denied by Judge Kenneth Salinger on October 27, 2015 after an evidentiary hearing. Motions to dismiss and for information relating to a confidential informant were also filed and ultimately denied by Judge Peter Krupp December 31, 2015; defendant's application for interlocutory relief to the Supreme Judicial Court was denied as well. Around this same time, the defendant moved to dismiss Perullo as his counsel, stating in an affidavit that Perullo had lied to him and that Perullo's conduct "threatened my right to a fair trial." Perullo separately filed his own motion to withdraw, stating his reasons in an affidavit that was impounded. On February 19, 2016, Judge

Robert Tochka allowed those motions and attorney Doyle was appointed to represent the defendant.

As a result of this change in counsel, the original trial date of March 15, 2016 had to be continued. The new trial date was May 30, 2016. At the Final Pretrial Conference, Doyle filed the types of motions which are fairly standard in a case like this one: they included a motion to prohibit evidence of any prior bad acts or prior convictions of the defendant, and a motion for specific questions to be posed to the venire. The case was transferred to Judge Linda Giles' session for trial.

On June 1, 2016, the parties appeared before the Court for a change of plea. According to a transcript of those proceedings, there had been some discussion between the lawyers and Judge Giles the day before, and it was decided that the Commonwealth was willing to make certain "plea concessions." In particular, the Commonwealth agreed to dismiss the rape charge in return for the defendant agreeing to plead guilty to the remaining counts, with a joint recommendation to be made to the Court regarding sentencing. That recommendation was reviewed with the Court on June 1 with the defendant present; Judge Giles then conducted a full colloquy with the defendant whereby she explained to him the rights that he was giving up in pleading guilty. She asked the defendant if he was satisfied with the representation he had received from attorney Doyle and the defendant indicated that he was. She asked if anyone had forced, threatened or pressured him into pleading guilty and the defendant stated that no one had. The defendant at no time expressed any reservations about pleading guilty nor did he appear to be confused by any of the judge's questions. In fact, at one point he actually corrected the judge when she suggested that she need not advise the defendant about the habitual offender

statute. The defendant received a sentence of eight to ten years on certain of the charges with seven years probation on the remaining charges, to begin after his period of incarceration.

In addition to what can be gleaned from the court file, this Court has considered evidence presented at a hearing on this motion held on May 6, 2022.<sup>1</sup> In particular, this Court heard testimony from Perullo, Elizabeth Keeley, the assistant district attorney assigned to the case for trial, and the defendant himself. It also admitted into evidence certain exhibits, including the Facebook postings by Doyle, which are described in detail in the Court's July 8 Gaines Decision. This Court makes the following findings of fact based on that evidence.

Perullo's testimony was essentially in line with what this Court already gleaned from the file: he had unsuccessfully litigated several motions and was considering filing a motion to suppress identification made from a photo array when the defendant fired him. This occurred when Perullo broached the subject of a possible plea with the defendant. As he recalled it, Perullo had been attempting to persuade the prosecutor to agree to the minimum mandatory sentence of five years, ranging up to a seven year sentence. Once Doyle was appointed, Perullo turned over his case file to Doyle, but had no further conversation with him. In 2017 when information about Doyle's Facebook postings surfaced, Perullo, as one of the lawyers supervising bar advocates for CPCS, was appointed to investigate Doyle. Based on that investigation and on his own familiarity with Doyle, Perullo knew that Doyle had a reputation of being "dismissive" of his clients but did not hear him make any racial slurs. As Perullo described it, Doyle "did not like liberals" and believed in guns: he was "not a politically correct person." But his attitudes toward his clients (in Perullo's opinion) did not appear to be based on their membership in any particular group.

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<sup>1</sup>The Commonwealth agreed that an evidentiary hearing was warranted. There was no such agreement in the Gaines case.

Keeley, the trial prosecutor, also testified. She regarded the Commonwealth's case as a strong one: unlike other trafficking cases, the complaining witnesses had been located and were available to testify at trial. Indeed, three of them submitted victim impact statements at the time of the guilty plea. The evidence against the defendant included not only their testimony but also videos of the alleged victims that were used to solicit customers, cell phone records and GPS evidence. The only plea discussions Keeley could recall concerned dropping the rape charge, which her office ultimately agreed to do. Keeley formulated her recommendation based on the sentencing guidelines and the defendant's criminal record, which dated back to 1996 and included convictions for assault and battery with a dangerous weapon, assault and battery on a police officer, and threats.

The defendant also testified at the evidentiary hearing. The defendant is African American and a practicing Muslim. At his first meeting with Doyle in the Nashua Street jail, the defendant was wearing a kufi: Doyle demanded that he take it off and "not to wear that shit in a courtroom." At another meeting in the jail two weeks later, Dew again wore a kufi; this time, Doyle left the room without any conversation between them. I credit this testimony. The next meeting with Doyle was at the courthouse shortly before the scheduled trial date. The defendant testified that Doyle advised him to take the plea offer and told him that any attempt by the defendant to seek a new court appointed counsel would likely be futile, given that the matter was scheduled for trial. Although I credit this testimony, I do not find that there is any factual basis for a claim that the defendant was coerced into accepting the plea bargain. Nor is there any evidence in the record to suggest that the plea offer was unreasonable, particularly given the charge concession that the government was making by dismissing the rape charge.

Finally, there are the Facebook postings. Unlike in the Gaines case, these postings were made around the same time that Doyle was representing the defendant. As the Commonwealth concedes, these postings are quite disturbing, crude, and profane. Although Doyle expressed in these postings views that reflected prejudice against a wide variety of groups (including African-Americans, immigrants and transgender people), his views regarding Muslims were particularly virulent. For example, he shared posts with his Facebook friends that described Muslims as “goat fuckers with laundry on their heads” and, in sharing one anti-Muslim video, wrote: “Allah be praised. Go meet your 72 fat, smelly virgins, asshole.” He “liked” another posting from the “Comical Conservative” stating: “When liberals aren’t busy bashing peaceful Christians, they’re making excuses for Muslims cutting people’s heads off.” Doyle shared other similarly anti-Muslim memes with his Facebook friends. He also posted Facebook friends about the work he did as a criminal defense lawyer. Although he expressed a general disdain for many of his clients, referring to them as “assorted thugs and bad guys,” Doyle also bragged about getting them off or getting them a good deal. When one Facebook friend commented that “U love bathing in the filth, so long as it’s green,” Doyle replied: “Hell, yeah.” When another suggested that a client recently found not guilty would be retaining Doyle again soon, Doyle responded: “Absofuckinglutely right, chief? Job security in the Roxbury District Court.”

As stated in an affidavit from a CPCS staff attorney, these Facebook postings and comments came to CPCS’ attention in September 2017. As stated in his own affidavit submitted in support of this Motion dated September 10, 2021, Dew did not connect the incidents involving the kufi to the bigotry Doyle displayed in these postings until he learned about the postings in 2021.

## DISCUSSION

Where a defendant (as here) seeks to vacate his conviction based on the representation that he received, courts both state and federal analyze such a claim in terms of whether the defendant has been deprived of his constitutional right to counsel, which in turn requires a showing that defense counsel was “ineffective.” As to what constitutes ineffective assistance, the seminal case in Massachusetts is Commonwealth v. Saferian, 366 Mass. 89 (1974), where the Supreme Judicial Court set forth a two pronged test for analyzing such claims. First, the reviewing court, taking into account the specific circumstances of the case before it, should determine whether there has been “serious incompetency, inefficiency, or inattention of counsel” that falls “measurably below that which might be expected from an ordinary lawyer.” 366 Mass. at 96. If that is found, then the court should go on to determine whether that deficient performance has “likely deprived the defendant of any otherwise available, substantial ground of defense.” Id.

Ten years later, the United States Supreme Court tackled the same issue in Strickland v. Washington, 466 U.S. 668 (1984), which interpreted and applied the Sixth Amendment. With respect to assessing the adequacy of defense counsel’s performance, the Supreme Court stated that judicial scrutiny must be “highly deferential.” 466 U.S. at 689. The convicted defendant must identify those acts or omissions of counsel alleged not to have been the result of reasonable professional judgment and the court must then determine whether they were “outside the range of professionally competent assistance” that is sufficient to overcome a “strong” presumption that counsel provided adequate assistance. 466 U.S. at 690. Even upon such a showing, the conviction should not be set aside if the error likely had no effect on the judgment. 469 U.S. at

691. That is, “any deficiencies in counsel’s performance must be prejudicial to the defense in order to constitute ineffective assistance under the Constitution.” 466 U.S. at 692.

The takeaway from these two important precedents is twofold: 1) it is the defendant’s burden to demonstrate exactly how his counsel was incompetent; and 2) the defendant must then show that these identified deficiencies likely had some impact on the outcome of the case. Significantly, the defendant here makes no attempt to show either that Doyle’s performance fell measurably below that of the ordinary competent lawyer or that any deficiencies in that performance likely deprived the defendant of a substantial defense or otherwise called into question the outcome. The plea deal was reached when it was clear that the Commonwealth had not only located the victims of the sex trafficking but also had them at the courthouse ready to testify. The plea deal included a concession on the part of the Commonwealth to drop the most serious charge of rape. The colloquy between the defendant and the judge was thorough, with the defendant indicating that he understood the rights he was relinquishing and denying that he had been coerced into pleading guilty. Perhaps most important, the defendant himself did not draw a connection between Doyle’s expressed distaste for his wearing a kufi and any advice that Doyle gave him in accepting a plea. That is, no matter how disturbing Doyle’s personal views were, there is no indication in the factual record before this Court that they influenced Doyle’s representation of the defendant.

Perhaps realizing his inability to satisfy the two pronged test of Strickland and Saferian, the defendant argues that Doyle’s racist and anti-Muslim views constitute “structural error.” A finding of structural error would mean that the guilty plea would be set aside without any showing of prejudice. As to why this Court should find structural error, the defendant contends that the constitutional violations are of such a magnitude that he need not show that Doyle’s

personal views actually impacted his representation of the defendant. As what those violations are, the defendant's Supplemental Memorandum describes the injury to the defendant as "standing squarely at the intersection of arguably the two most important constitutional rights he had when he was accused: his right to be represented by an attorney and his right to be free from unlawful discrimination in the criminal proceedings before him." Supplemental Memorandum dated January 29, 2022, p. 9.<sup>2</sup> The defendant also argues that it should be the Commonwealth's burden to show that the constitutional violation was harmless beyond a reasonable doubt. See Defendant's Memorandum of Law re: Burden of Persuasion and Standard of Review dated May 23, 2022. This Court finds a number of flaws in the defendant's arguments.

With regard to the claim that the defendant was deprived of his right to counsel, the Supreme Court in Strickland did acknowledge that there was a certain category of cases where it may be difficult to measure prejudice: that is where the representation is corrupted by conflicting interests. 466 U.S. at 692, citing Cuyler v. Sullivan, 446 U.S. 335, 345-350 (1980). Under those circumstances, the burden on the defendant is more limited in nature. The Supreme Judicial Court went a step further in applying Article 12 of the Massachusetts Declaration of Rights. If the defendant establishes an actual or "genuine" conflict of interest, then a new trial is warranted without any showing that the lawyer's performance affected the result. Commonwealth v. Mosher, 455 Mass. 811, 819 (2010), citing Commonwealth v. Hodge, 386 Mass. 165, 169-170 (1982). The reason why a defendant need not show actual prejudice is because the "effect of the conflict on the attorney's representation of the defendant is likely to be pervasive and unpredictable, while the difficulty of proving it may be substantial, 'particularly

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<sup>2</sup> The defendant filed three separate memoranda in support of his motion for new trial, each with a slightly different emphasis.

as to things that may have been left not said or not done by counsel.” Commonwealth v. Mosher, 455 Mass. at 819, quoting Commonwealth v. Cobb, 379 Mass. 459, 461 (1980).

The circumstances under which the SJC has concluded that there was an actual conflict of interest have been quite limited, however. See e.g. Commonwealth v. Cousin, 478 Mass. 608, 617 (2018) (reversing this judge for finding an actual conflict of interest). An actual or genuine conflict will not simply be inferred: that is, contrary to the defendant’s argument that the Commonwealth has the burden, the SJC has made it clear that the burden is on the defendant, and that the burden is to show with “demonstrable proof detailing both the existence and the precise character” of the alleged conflict. As discussed in this Court’s July 8 Gaines Decision, there is no Massachusetts authority ( or for that matter, any authority outside of Massachusetts) which supports the defendant’s argument that Doyle’s views as expressed to his Facebook friends created the kind of conflict of interest which would require vacating the defendant’s conviction without any showing that those views affected Doyle’s representation of the defendant. See July 8 Gaines Decision, pp. 5-7.

That should come as no surprise. Courts have never required that defense counsel and his/her client share the same worldview. Indeed, criminal defense attorneys often have to represent people who in their opinion have committed reprehensible acts. They understand, however, that their jobs require them to put aside those personal feelings and to zealously represent the interest of their clients regardless of how they personally feel about them. Thus, for a defense attorney to describe his clientele as “assorted thugs and bad guys” (as attorney Doyle did in one communication) does not mean that he is incapable of representing those clients in an effective manner.

Of course, the views that Doyle expressed in his Facebook postings went well beyond expressing a disdain for his criminal clients. The question is therefore whether a lawyer who expresses racist views in his personal life must be presumed ineffective any time that he or she represents a client of color. This Court would have much less difficulty answering that question if Doyle's views were actually known to the judge who appointed him. That is because the judiciary has a duty to ensure that those who participate in the administration of justice do so without displaying bias toward any group, particularly where the members of that group have historically been the targets of oppression. Commonwealth v. McCalop, 485 Mass. 790, 798-799 (2020) (allegations of racist comments by deliberating juror required further inquiry by judge); see also Commonwealth v. Kozubal, 488 Mass. 575, 580 (2021) (an attorney's use of even a single preemptory challenge that is based on juror membership in protected group violates article 12). That obligation necessarily arises, however, only where the discriminatory behavior or practice actually enters the courtroom in some way or is called to the attention of the judge overseeing a criminal case so that the judge has some ability to do something about it. Here, Doyle did not direct racist remarks to his clients, to court personnel or to any other participant in the judicial process. Indeed, the defendant himself was unaware of Doyle's anti-Muslim views until 2021.

This lack of knowledge (or even notice) regarding Doyle's personal views is also relevant to defendant's argument that there was unlawful discrimination. The defendant frames this as essentially a violation of the Equal Protection clause of the Fourteenth Amendment. But it has long been established that the Fourteenth Amendment requires "state action" and does not erect a shield against merely private conduct, however discriminatory or wrongful. Shelley v. Kraemer, 334 U.S. 1, 13 (1948). Accordingly, that Doyle was a bigot implicates the Equal

Protection clause only if the judicial system participates in perpetuating that bigotry so as to become an accomplice in unlawful discrimination. Here, the Court had no way of knowing when it appointed Doyle to represent the defendant either that the defendant was a Muslim or that Doyle held anti-Muslim views.<sup>3</sup>

Of course, it could be argued that, once Doyle's views were discovered, the court has a constitutional obligation to act. But that duty to act stems from the court's obligation to protect the defendant's right to receive effective legal representation. Whether that right has been abridged in this case requires that the Court scrutinize Doyle's performance using the two pronged analysis set forth in Strickland and Saferian. As already discussed, the defendant makes no real attempt to show that Doyle's performance was deficient or, if it was, that this likely had some impact on the outcome of the case.

The final argument that the defendant makes is that the appointment of Doyle to represent the defendant was equivalent to appointing no counsel at all. As the Supreme Court held in Strickland, "[a]ctual or constructive denial of the assistance of counsel altogether is legally presumed to result in prejudice." 466 U.S. at 692. That would include "various kinds of state interference with counsel's assistance." *Id.*, citing United States v. Cronin, 466 U.S. 648 (1984). As explained in Cronin (decided the same day as Strickland), where the accused is denied counsel at a critical stage of his trial—either actually or constructively -- the adversarial process

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<sup>3</sup> The defendant's memoranda address the state action requirement only in passing, stating only that Doyle was appointed as a bar advocate cleared to receive such appointments by the Committee for Public Counsel Services, a state agency. What is left unexplained is why this would subject the appointing court to an Equal Protection claim. It is also worth noting that CPCS itself did not know about Doyle's views until it initiated an investigation in 2017. Even assuming that it may have some obligation to more carefully monitor the Facebook postings of the attorneys it clears for appointment, CPCS's shortcoming in this regard should not be attributed to the judiciary.

is presumptively unreliable and no specific showing of prejudice is required. However, just as the courts have narrowly defined what constitutes a genuine conflict of interest, they have also narrowly construed those circumstances that constitute a constructive denial of counsel such that prejudice can be presumed.

Cronic is a good example. Although the lower court had appointed young inexperienced counsel to a complex case and then gave him only 25 days to prepare for trial, that did not support a presumption of ineffectiveness without evaluating the attorney's actual performance and its effect on the outcome. Eighteen years later, the Supreme Court refused to presume prejudice in a death penalty case even though the defense counsel in the sentencing phase failed to present mitigating evidence and waived final argument – and despite the fact that counsel was diagnosed with a mental illness after the trial that rendered him unqualified to practice law. Bell v. Cone, 535 U.S. 685 (2002); see also Burdine v. Johnson, 262 F.3d 336 349 (5<sup>th</sup> Cir. 2000) (although holding that a lawyer who slept through significant portions of a capital murder trial was presumptively ineffective, the court added that a lawyer who was intoxicated during the trial may not be). In the instant case, this Court finds that the Facebook postings alone, no matter how disturbing, do not support the conclusion that the appointment of Doyle to represent this defendant – or any defendant of color – was the same as denying that defendant the right to counsel.

That is not to say that there could never be a situation where, because of a lawyer's racial animus, prejudice to his clients of color should be presumed. Such was the case in Ellis v. Harrison, 947 F.3d 555, 559 (9<sup>th</sup> Cir. 2020) (*en banc*), a case discussed at some length in Gaines. As this Court concluded in Gaines, however, this case is not the same as Ellis, where the defense lawyer's racism toward his clients was more explicit (specifically referring to his clients by the

N-word, for example) and was not confined to private conversations, extending to court personnel and lawyers of color. This was important to Judge Nguyen, the author of the concurring opinion in Ellis, who broke with his colleagues in more explicitly condemning the defense lawyer but was also careful to add:

I do not suggest that every attorney who utters a racial epithet will be unable to adequately defend clients of a different race. An attorney's racist statement outside the courtroom that has nothing to do with a client, though contemptible and potentially sanctionable, does not in and of itself call for the reversal of every criminal conviction involving a defendant of the targeted race in which the attorney participated.

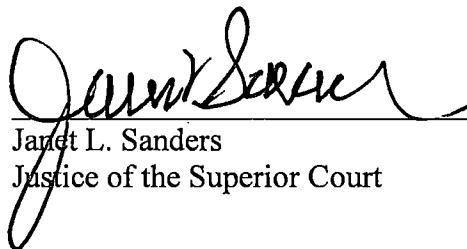
947 F.3d at 563. This Court agrees with this reasoning.

In declining to presume prejudice, this Court does not intend to condone or excuse Doyle's worldview. Nor does the Court mean to suggest that Doyle's performance in representing a criminal defendant should not be carefully scrutinized. Rather, it holds only that the mere fact that Doyle was the defendant's lawyer does not automatically entitle the defendant to the relief he seeks. If the defendant were able to meet the two pronged analysis set forth in Saferian and Strickland, then the result in this case would be decidedly different.

For all the foregoing reasons, the defendant's Motion for a New Trial is hereby

**DENIED.**

Dated: August 29, 2022

  
Janet L. Sanders  
Justice of the Superior Court



Committee for Public Counsel Services  
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**ANTHONY J. BENEDETTI**  
CHIEF COUNSEL

**VANESSA VÉLEZ**  
DEPUTY CHIEF COUNSEL

**ELIZABETH DEMBITZER**  
DIRECTOR OF CRIMINAL APPEALS

I, Elizabeth Dembitzer, state the following is true to the best of my knowledge, information, and belief:

- 1) In September 2017, I was working as a staff attorney in the Criminal Trial Support Unit (“CTSU”) at the Committee for Public Counsel Services (“CPCS”).
- 2) In September 2017, Carol Beck, the then Director of the CTSU, asked me to log on to Facebook to view Attorney Richard Doyle’s Facebook page.
- 3) Richard Doyle’s Facebook page was set to “public” so that anyone could view his postings, i.e., you did not have to be a Facebook “friend” to view his Facebook postings.
- 4) I reviewed his Facebook page and, using the computer’s “snipping tool,” made copies of several of his postings (see attached).
- 5) I also drafted descriptions of these postings (see attached).
- 6) I reviewed posts dating back to 2014.

Signed: \_\_\_\_\_

Elizabeth Dembitzer

7/16/21

## DESCRIPTION OF FACEBOOK POSTS

- 1a. Shared post: photo of the back end of a very large pig with testicles hanging out “Dear Muslims ... Kiss our big bacon balls” (p. 001)
- 1b. Shared post: quote from a Canadian Hockey Announcer “If hooking up one raghead terrorist prisoner’s testicles to a car battery to get the truth out of the lying little camel shagger will save just one Canadian life .....” (p. 002)
- 1c. Shared post: “You tell those goat fuckers with the laundry on their heads that its wash day and were bringing the fucking Maytag!” (p. 003)
- 1d. Facebook post: “Allah be praised. Go meet your 72 fat, smelly virgins, asshole.” And the shared picture says, “When goat fuckers use mortar hahaha” (p. 004)
- 1e. Shared post: “In Islam, you have to die for Allah. The God I worship died for me.” (p. 005)
- 1f. Shared post: “Let’s not jump to conclu....aaaaaand its Muslims” (p. 006)
- 1g. Shared post: “When liberals aren’t busy bashing peaceful Christians, they’re making excuses for Muslims cutting people’s heads off” (p. 007)
- 2a. Above a shared photo that states, “What if Illegals Left?” Attorney Doyle wrote “.....with a boot in each ass out the door.” In comment section someone wrote, “You could fit at least twenty in your big Caddy for a drive to the border.” Attorney Doyle responded: “I’d give ‘em the Jimmy Hoffa treatment.” (p. 008)
- 2b. Shared post: “Our Ancestors came to the country legally, adopted its culture, didn’t spit on country’s traditions, didn’t cost a dime to the federal government.” (p. 009)
- 3a. Shared post “Colin Kaepernick the Waterboy” depicting Colin Kaepernick as a waterboy (p. 010)
- 3b. Shared post: “5 minutes after Trump legalizes weed in all 50 states” [photos show African American men in Trump shirts and hats] (p. 011)
- 3c. Shared post: two photographs - top photo: “Don’t glorify shooting people” [photo of young African American men posing with guns]; bottom photo: “Then cry like a bitch when someone you love gets shot.” [photo of distraught African Americans apparently after a death] (p. 012)

- 4a. Shared post: “If you belong in this bathroom [photo of men’s bathroom sign] and you follow my daughter or my wife into this bathroom” [photo of women’s bathroom sign] “you’re gonna need this bathroom” [photo of handicapped sign] (p. 013)
- 4b. Shared post: This is what bravery looks like [picture of soldiers in battle]. Not a man wearing a dress” (p. 014)
- 5a. In a comment to his post about winning a trial, Attorney Doyle wrote, “I can walk away from this one without feeling dirty. Doesn’t happen much” (p. 015)
- 5b. In a comment to his post about winning a gun trial, Attorney Doyle wrote, “It was someone else’s shotgun. Client not a bad guy.” Someone commented, “Don’t worry he’ll be retaining you again soon. Job security.” Attorney Doyle responded: “Absofuckinglutely right, Chief? Job security in the Roxbury district court” (pp. 016-017)
- 5c. In comment to a post about a not guilty at trial, Attorney Doyle wrote: “I went to the dark side” A comment then asked about his client and Attorney Doyle responded: “He wanted his cell phones (with business contacts no doubt) and his baseball hats back. I told him to go home and Jerry off. ...Jerk off that is.” (pp. 018-020)
- 5d. Check in at the Suffolk Superior Court, Attorney Doyle wrote: “Poor, misguided children.” Someone commented, “You should take them as foster kids...” Attorney Doyle responded, “NFW” (p. 021)
- 5e. Check in at the Suffolk County Court, Attorney Doyle wrote: “Assorted thugs and bad guys” (p.022)
- 5f. “Yesterday a 21 y.o. punk client told me: “I don’t like your attitude, Doyle.” In the comments section Attorney Doyle wrote, “I told him to come back with a new lawyer or a toothbrush” and “Soap on a rope for a going away present.” (pp. 023-024)



**Rich Doyle** shared Lupe Reyes's post

September 19, 2015 · 🌐

...

# Dear muslims,



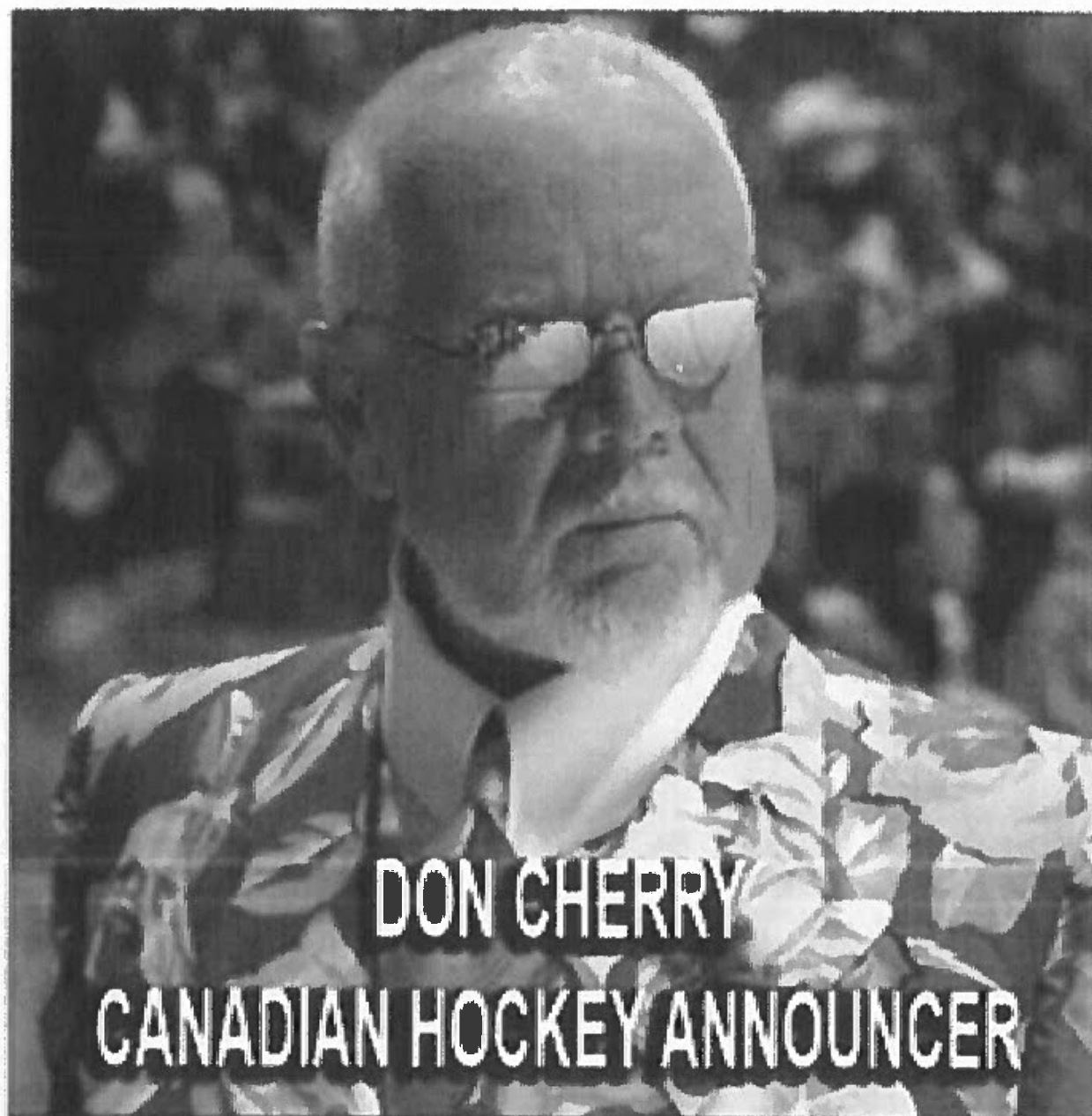
# Kiss our big bacon balls

**Lupe Reyes**

September 19, 2015 · 🌐

Appendix 51

I just became a bigger Hockey fan.....I guess Canadians want to protect their citizens, I wish our government would protect... Continue Reading



www.AMERICANSTRONG.com

"If hooking up one raghead terrorist prisoner's testicles to a car battery to get the truth out of the lying little camel shagger will save just one Canadian life, then I

 Like  Share 31

Exactly!!

 Like ·  1 · November 17, 2015 at 8:51am

Rest in peace my dear friend. May God Bless you always.

 Like ·  1 · November 17, 2015 at 8:51am**Rich Doyle** shared Lupe Reyes's postNovember 16, 2015 · 


...



Lupe Reyes is with Rich Doyle and 3 others.

November 15, 2015 · 

Appendix 53

 Share

003

 Share



**Rich Doyle** shared Anti Terror Squads's video. ...

September 6, 2014 · 

Allah be praised. Go meet your 72 fat, smelly virgins, asshole.



**Anti Terror Squads** added a new video: When goat fuckers use mortar.



September 5, 2014 · 

When goat fuckers use mortar hahaha .

thanks to our friend Zaniar Khaled





Like · Reply · October 8, 2016 at 9:15am



Write a comment...



Rich Doyle shared AskDrBrown's photo.



October 7, 2016 · 🌐

"IN ISLAM,  
YOU HAVE TO DIE FOR ALLAH.  
THE GOD I WORSHIP  
DIED FOR ME."

FRANKLIN GRAHAM

AskDrBrown

October 1, 2016 · 🌐

Like Page



Like



Comment



Share

Appendix 55



15

005



Rich Doyle shared Chris Flaherty's photo.

December 4, 2015 · 🌐



Chris Flaherty

December 3, 2015 · 🌐

Share

Appendix 56



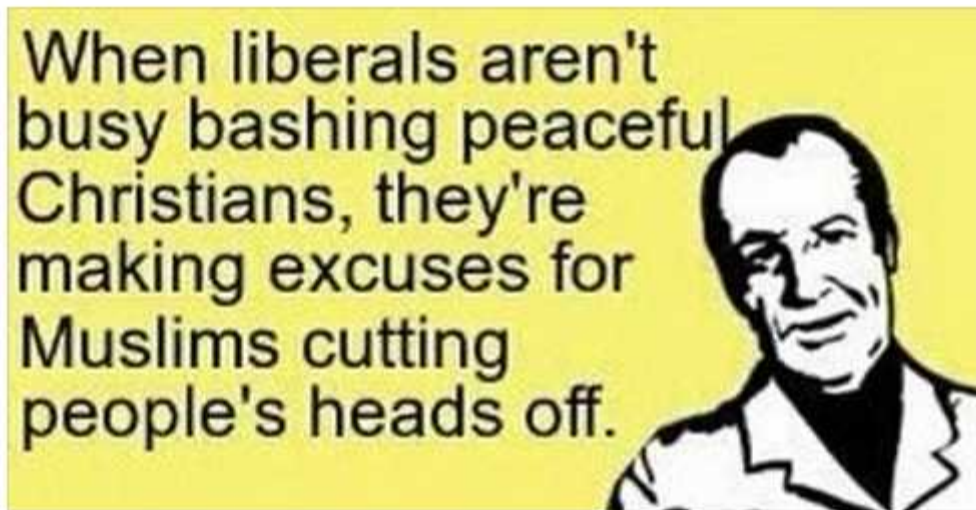
4



**Rich Doyle** shared [The Comical Conservative's](#) photo.



April 3, 2015 · 🌐



**The Comical Conservative**

February 19, 2015 · 🌐



Like Page



Share



8



**Rich Doyle** shared The Revolution's photo.



October 3, 2014 · 🌐

... with a boot in each ass out the door.



**The Revolution** is with Trisha Fisher and 10 others.

September 29, 2014 · 🌐

 Like Page

What if the illegals left?


Somebody really did their homework on this one. Best on the subject to present date.

What if 20 Million Illegal Aliens Vacated Americ...

[See More](#)

 Share

 2

 Rich you could fit at least twenty in your big Caddy for a drive to the border!

October 3, 2014 at 8:37am



**Rich Doyle** Id give 'em the Jimmy Hoffa treatment.

October 3, 2014 at 9:36am



September 17 · 🌐



Deplorables

September 14 · ⚙️



Yep!

# OUR ANCESTORS



**CAME TO THE COUNTRY LEGALLY  
ADOPTED ITS CULTURE  
DIDN'T SPIT ON COUNTRY'S TRADITIONS  
DIDN'T COST A DIME TO FEDERAL GOV'T**

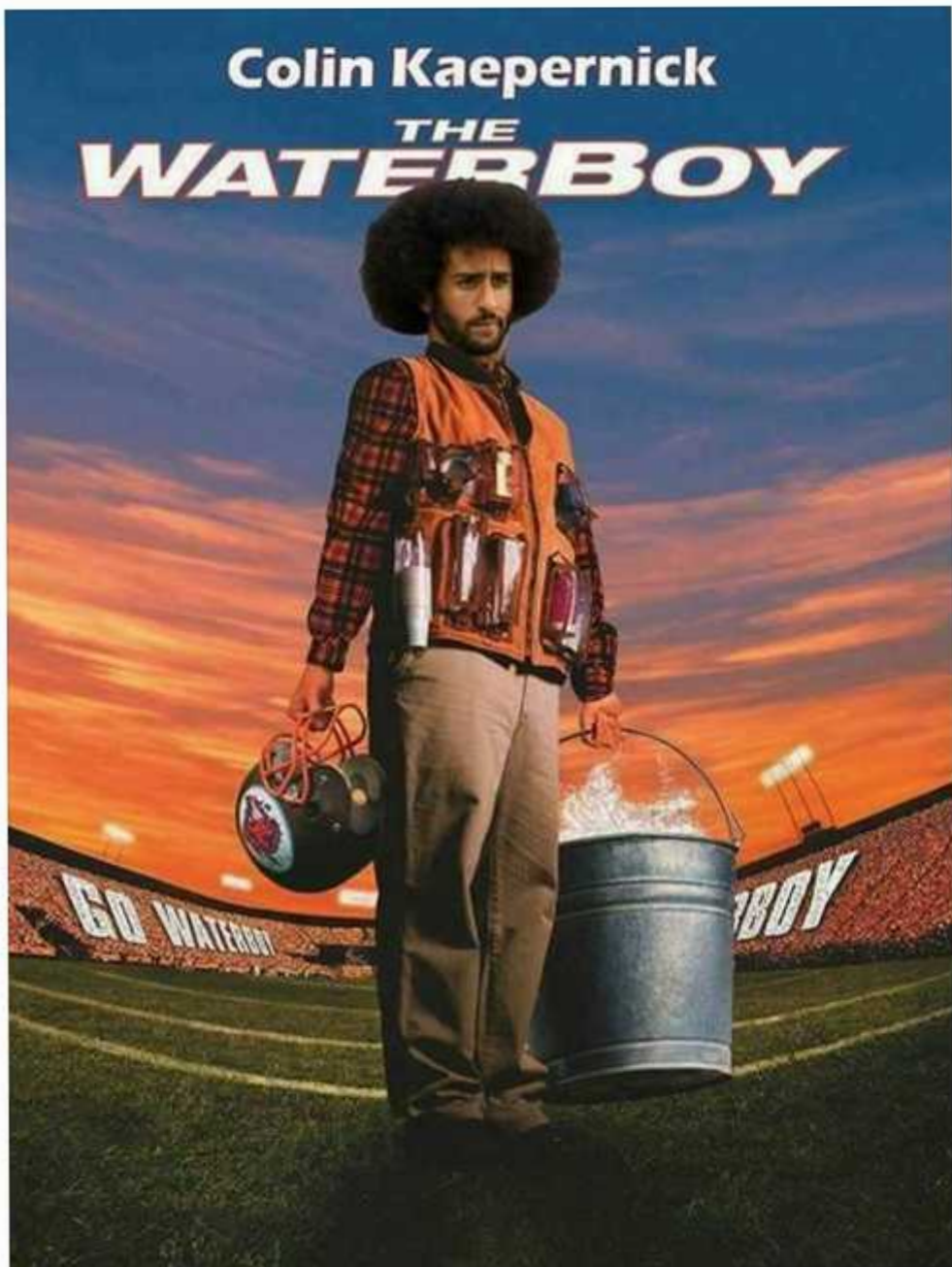


Like · September 5 at 9:58pm



**Rich Doyle** shared Mike's Corner's post

September 4 · 🌐



**Mike's Corner**

September 1 · 🌐

Appendix 60

👍 Like Page

 Share

Rich Doyle shared Lupe Reyes's post

February 7 · 🌐

5 minutes after Trump legalizes weed in all 50 states.



Lupe Reyes

February 6 · 🌐

 Like  Comment  Share 1

Write a comment...

Appendix 61





September 25, 2016 at 10:52am



Rich Doyle shared Uncle Sam's Misguided Children's photo.

...

September 23, 2016 · 🌐



Appendix 62

American flag you can break their legs!!!!

1 · May 19, 2016 at 4:51pm



**Rich Doyle** shared Ellis Mattison Jr.'s post.

May 18, 2016 · 🌐

IF YOU BELONG IN THIS BATHROOM



AND YOU FOLLOW MY DAUGHTER  
OR MY WIFE INTO THIS BATHROOM



YOU'RE GONNA NEED THIS BATHROOM



**Ellis Mattison Jr.** is with Nick Schulte and Nigel McCreary.

May 17, 2016 · 🌐

[Share](#)[Like](#) [Love](#) 12**Rich Doyle** shared Jack Cunningham's photo.

May 11, 2016 · 🌐

...

**Jack Cunningham** ▸ Law Enforcement for Life!

May 10, 2016 · 🌐

**Appendix 64**

What do we teach our children

1y Like



**Rich Doyle**

76 yo Italian national stopped for speeding. Instant language barrier and personality conflict. No FS tests or BT. Client gave attitude @ scene. Got lugged. Good defense witnesses. Happy ending for a harmless old man whom wouldn't swat a mosquito.

1y Like



Okay good job counselor.

1y Like



**Rich Doyle**

I can walk away from this one without feeling dirty. Doesn't happen much.

1y Like



U love bathing in the filth, as long as it's green.

1y Like



**Rich Doyle**  
Hell yeah.



**Rich Doyle**

June 15, 2016 · 🌐



Beat another gun case today.

🔗 Share



and 44 others



Oh, the liberal Democrats will love to hear that. Congrats.

👍 2 · June 15, 2016 at 4:26pm



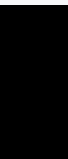
One. Well the way I figured if someone in Florida had his gun then at least they can return fire. 2nd amendment please.

👍 1 · June 15, 2016 at 5:08pm



**Rich Doyle** Long live the NRA!!!

👍 3 · June 15, 2016 at 4:27pm



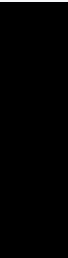
Congrats!

👍 1 · June 15, 2016 at 4:28pm



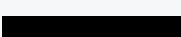
Congratulations !!

👍 1 · June 15, 2016 at 4:30pm



NRA for president!!

June 15, 2016 at 4:35pm



Lunch bags all around haha!

June 15, 2016 at 4:37pm



Congratulations! Out of curiosity, where was the gun found?

June 15, 2016 at 4:44pm



**Rich Doyle** .12 ga shotgun across the back seat, totally covered by a towel. I put client on. Denied knowledge.

June 15, 2016 at 5:42pm



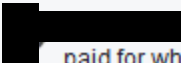
What was the case? Tell me it was a law abiding citizen trapped in the net of zero tolerance, not a scumbag perp who skated on the mandatory weapons charge.

👍 1 · June 15, 2016 at 5:00pm



**Rich Doyle** It was someone else's shotgun. Client not a bad guy.

👍 1 · June 15, 2016 at 5:43pm



One defense attorney s do that that is what they paid for who defended Oliver North. There was no epidemic then Right

👍 1 · June 15, 2016 at 7:47pm


Appendix 66




Don't worry he'll be retaining you again soon. Job security

towel. I put client on. Denied knowledge.


June 15, 2016 at 5:42pm

 What was the case? Tell me it was a law abiding citizen trapped in the net of zero tolerance, not a scumbag perp who skated on the mandatory weapons charge.

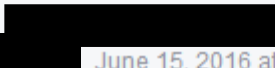
 1 · June 15, 2016 at 5:00pm

 **Rich Doyle** It was someone else's shotgun. Client not a bad guy.


 1 · June 15, 2016 at 5:43pm


 One defense attorney s do that that is what they paid for who defended Oliver North. There was no epidemic then Right

 1 · June 15, 2016 at 7:47pm

 Don't worry he'll be retaining you again soon. Job security 🚓


June 15, 2016 at 5:54pm

 **Rich Doyle** Absofuckinglutely right, Chief! Job security in the Roxbury District Court.

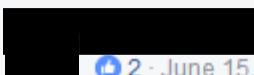
 1 · June 15, 2016 at 5:56pm

 Don't you mean "I beat off with my gun today". Just checking.

June 15, 2016 at 5:55pm

 **Rich Doyle** That too. Don't tell.


June 15, 2016 at 5:57pm

 Great work long live the 2nd amendment and the NRA!


 2 · June 15, 2016 at 6:22pm

 **Rich Doyle** Amen.


June 15, 2016 at 7:03pm

 Awesome! You are a great a Lawyer **Rich Doyle**!

 1 · June 15, 2016 at 8:12pm

 It happens all the time, why would someone have knowledge of a little shotgun hidden under a towel in the backseat???

June 15, 2016 at 11:00pm

 **Rich Doyle** I guess he got the benefit of the doubt.

June 16, 2016 at 10:17am

**Rich Doyle**

March 18, 2016 · 🌐

...

Not Guilty. Firearm. Makes you feel a whole lot safer, huh?

Share

26

1 Share

██████████ If you only used your powers for good rather than evil...

3 · March 18, 2016 at 2:52pm

**Rich Doyle** I went to the dark side.

1 · March 18, 2016 at 9:10pm

██████████ Lol he doesn't know you're home address right? Probably pissed you didn't get the gun back for him

1 · March 18, 2016 at 9:14pm

View more replies

██████████ hahahahahahahaha

1 · March 18, 2016 at 2:55pm

██████████ But we live on the Rez were everyone is packing

3 · March 18, 2016 at 3:04pm

**Rich Doyle** Gotta have a license to carry in Boston. Tough gun laws here. I just saved years off the kid's ass. Between you and me, he should stop gang-banging. He spent 7 months in the can until today.

2 · March 18, 2016 at 4:06pm

██████████ Good Job Rich. Go Celebrate.

1 · March 18, 2016 at 3:17pm

**Rich Doyle** Indeed.

March 18, 2016 at 9:33pm

██████████ Zealot

2 · March 18, 2016 at 3:26pm

**Rich Doyle** Piece of sweet ass, baby boy. Piece of sweet ass.

1 · March 18, 2016 at 9:36pm

██████████ Hahahaha!

1 · March 18, 2016 at 11:00pm



**Rich Doyle**

He wanted his cell phones (with business contacts, no doubt) and his baseball hats back. I told him to go home and Jerry off.

1y Like



**Rich Doyle**

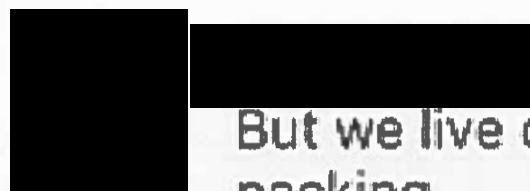
Jerk off, that is.

1y Like



hahahahahahaha

1y Like



But we live on the Rez were everyone is packing

1y Like



**Rich Doyle**

Gotta have a license to carry in Boston. Tough gun laws here. I just saved years off the kid's ass. Between you and me, he should stop gang-banging. He spent 7 months in the can until today.

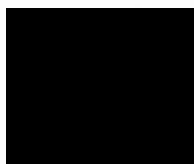
1y Like



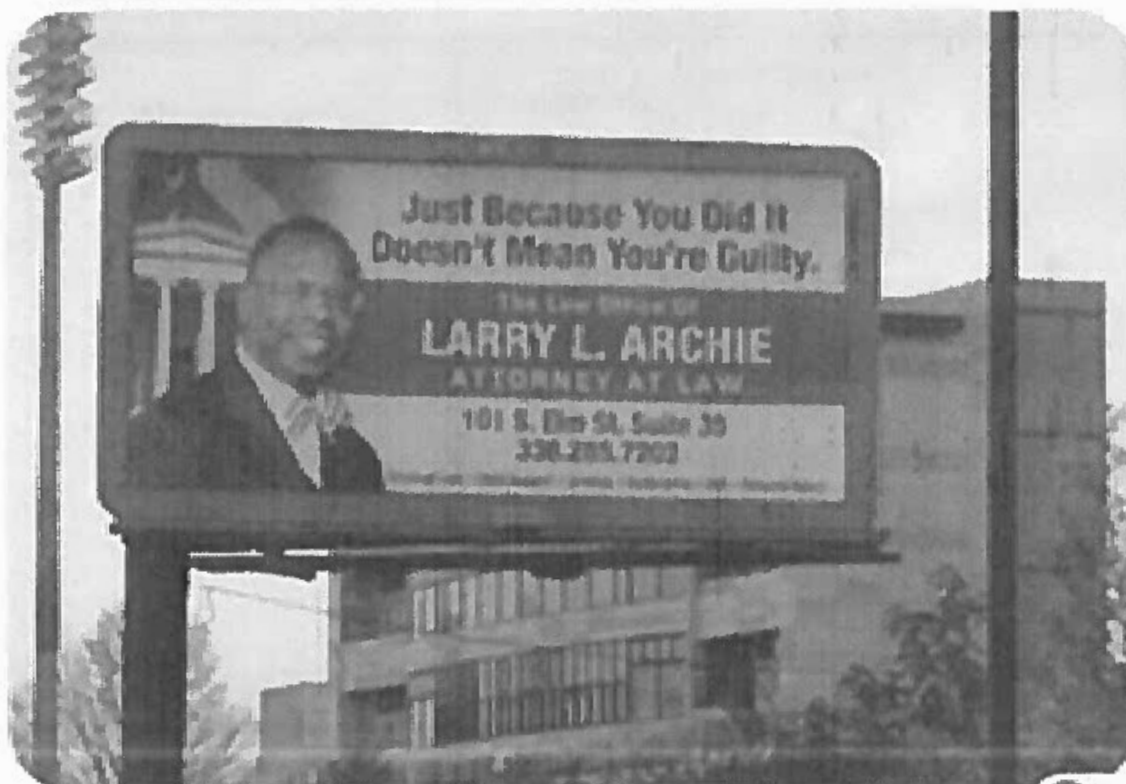


Let's go target shooting with him at your gun club. Tell him to bring the ammo. I use 40 cal for my Sig p226

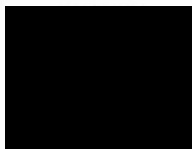
1y Like



Nice work brother!



1y Like



I wonder if these people with the positive replies would feel the same way if some gun toting thug was living next door to them?

1y Like



Rich Doyle



**Rich Doyle** is at **Suffolk County Superior Court.**

November 6, 2015 · Boston, MA ·

Poor, misguided children.



**Suffolk County Superior Court**

Government Organization · Boston, MA

477 people checked in here

Save

Share



9



Poor babies

November 6, 2015 at 11:15am



**Rich Doyle** Waaaaaahhhhhh!!!!!!

1 · November 6, 2015 at 11:16am



You should take them as foster kids...

1 · November 6, 2015 at 1:47pm



**Rich Doyle** NFW.

4 · November 6, 2015 at 1:55pm

Share

9



**Rich Doyle** is at **Suffolk County Courthouse**

January 8, 2015 · Boston, MA ·

Assorted thugs and bad guys.



**Suffolk County Courthouse**

Government Organization · Boston, MA

Shira Diner has been here

Save

Share

11

**Rich Doyle**

March 22, 2014 · 🌐

...

Yesterday, a 21 y.o. punk client told me: "I don't like your attitude, Doyle."

Share

29

██████████ And then what happened?

March 22, 2014 at 10:22am · 2

██████████ I tend to agree with the punk...you do have a poor attitude...lol

March 22, 2014 at 10:24am · 1

██████████ A dope slap behind a building OR did your fee go up LMAO

March 22, 2014 at 10:27am · 2

██████████ Wicked loud LOL!!

March 22, 2014 at 10:36am · 1

██████████ Oh dear...was he then shown what a real bad attitude looks like?

March 22, 2014 at 10:40am · 2

██████████ wheres the kid now??lmao

March 22, 2014 at 10:40am · 3

██████████ I captured some footage of the encounter Rich:

<https://www.youtube.com/watch?v=8Xjr2hnOHIM>



**Dirty Harry Do You ( I ) Feel Lucky Punk? ( HD )**

Dirty Harry shoot out scene. A San Francisco cop with...

YOUTUBE.COM

March 22, 2014 at 10:44am · 3

██████████ You'd better check that attitude, or he'll fire you from being his highly paid court-appointed attorney! Lol.

March 22, 2014 at 10:46am · 4

██████████ Smaht kid

March 22, 2014 at 10:47am · 1

██████████ Proper response: thats too bad because you are then really gonna hate the attitude of the COs at Walpole!

March 22, 2014 at 10:58am · 4

██████████ I bet you were smiling on the inside

██████████ Fair point, no?

March 22, 2014 at 11:51am · 1

██████████ That's why they invented "retainers"

March 22, 2014 at 12:08pm · 2

██████████ Sarge, hope you said "Who gives a F\$&K what you don't like?"

March 22, 2014 at 12:35pm · 2

██████████ Classic

March 22, 2014 at 1:30pm · 1

██████████ Sounds like a candidate for an orange jumpsuit.

March 22, 2014 at 1:52pm · 1



**Rich Doyle** I told him to come back with a new lawyer or a toothbrush.

March 22, 2014 at 3:41pm · 8

██████████ Can't make it up. My clients have yet to complain about my attitude, but I have been told, "bitch! You on clown time." Whatever that means...lol. I actually loved the comment and despite having no idea what "clown time" is...I accuse people of being on it when I don't like their attitude.

March 22, 2014 at 4:28pm · 3

██████████ And enlighten me with your response!

March 22, 2014 at 6:26pm · 1



**Rich Doyle** Scroll up and you'll find it.

March 22, 2014 at 6:27pm

██████████ Okay well that's better than a patient looking at my haircut and asking me "did you have brain surgery?"

March 22, 2014 at 6:33pm · 1

██████████ Double his retainer fee and if he complains re-double it.

March 22, 2014 at 8:09pm · 1

██████████ Tell the punk to shut up our he'll end up in a cell with Bubba the Love Spung who will change his attitude!

March 23, 2014 at 8:52am · 1



**Rich Doyle** ... soap on a rope for a going away present ...

March 23, 2014 at 11:13am · 1

██████████ You should have said to him in a "Dirty Harry" tone, "well punk, do you feel lucky? You can represent yourself, well punk?"

March 23, 2014 at 5:30pm · 1

██████████ I had one who refused to come to the office. All he literally had to do was cross the street (West Broadway) in order to meet with me. After his third or fourth rearrest, the judge in South Boston revoked his bail about a week or so before the next date... [See More](#)

March 23, 2014 at 9:19pm · 2

A complaint was issued regarding Attorney Richard Doyle with respect to his online publication on Facebook. The complaint indicated, among other things, that confidential information regarding clients was published, and that defamatory statements were made regarding people of the Muslim faith, people who did not appear to be Caucasian, people who are non-cisgender, and people who reside in the United States who are not documented with legal status.

A meeting took place on November 28, 2017 with Attorney Doyle. Nicole Dussault, Executive Director of Suffolk Lawyers for Justice, was present at the meeting. The following facts were established:

1. The Facebook publication was created by Attorney Doyle and under his control.
2. All of the posts contained in the complaint were in the Facebook publication.
3. The Facebook publication was not private. It was accessible by an internet search.
4. He has approximately 700 friends connected to the Facebook publication. This includes several actual friends, former clients, and approximately 50 friends he has no knowledge of.

The complaint raised the following concerns:

1. He has an actual or apparent conflict of interest in representing members of these classes of individuals, in violation of the Massachusetts Rules of Professional Conduct and the CPCS Performance Standards. See Mass. R. Prof. C. 1.7 (“...A concurrent conflict of interest exists if... there is a **significant risk** that the representation of one or more clients will be materially limited by... a personal interest of the lawyer.”)(Emphasis added.) See also comment [4] to Rule 1.7 (“Loyalty to a client is ... impaired when a lawyer cannot consider, recommend or carry out an appropriate course of action for the client because of the lawyer's other responsibilities or interests) and *Commonwealth v. Shraiar*, 397 Mass. 16, 20(1986) (“An actual or genuine conflict of interest arises where the independent professional judgment of trial counsel is impaired, either by his own interests, or by the interests of another client.”). See also CPCS Performance Guideline Chapter IV: Part 1: General Principles of Representation. A: Role of Defense Counsel “Counsel must know and adhere to all applicable ethical opinions and standards and comply with the rules of the court.”

a. Actual conflict

1. People of the Muslim faith **TRUE**

When presented the information regarding the posts regarding statements that were made regarding people of the Muslim faith, Attorney Doyle indicated that he had a friend die in 9-11. He also indicated that many of the people on his Facebook publication were childhood friends and that this was meant to be humorous. While I

credit this statement, the fact that his posts were designed to induce conversation and demean people of the Muslim faith in a public forum, cannot be reconciled with his duty of loyalty to his clients.

The following posts (summaries) were provided:

- i. Shared post of back end of very large pig with testicles hanging out “Dear Muslims ... Kiss our big bacon balls ”
- ii. Shared post with quote from a Canadian Hockey Announcer “If hooking up one raghead terrorist prisoner’s testicles to a car battery to get the truth out of the lying little camel shagger will save just one Canadian life .....
- iii. Shared post “You tell those goat fuckers with the laundry on their heads that its wash day and were bringing the fucking Maytag!”
- iv. Facebook post “Allah be praised. Go meet your 72 fat, smelly virgins, asshole.” And the shared picture says “When goat fuckers use mortar hahaha”
- v. Shared post: “In Islam, you have to die for Allah. The God I worship died for me.”
- vi. Shared post “Lets not jump to conclu....aaaaaand its Muslims”
- vii. Shared post: “When liberals aren’t busy bashing peaceful Christians, they’re making excuses for Muslims cutting people’s heads off”

**Therefore, given his statements and the posts detailed above, with respect to representing people of the Muslim faith, an actual conflict exists.**

**2. People who do not appear to be Caucasian TRUE**

When asked about this issue, Attorney Doyle indicated that he did not feel like he in any way discriminated against non-white people.

The following post (summaries) were provided.

- i. Shared post “Colin Kaepernick the Waterboy” depicting Colin Kaepernick as a waterboy.
- ii. Shared post: “5 minutes after Trump legalizes weed in all 50 states” [photos show African American men in Trump shirts and hats]
- iii. Shared post depicts two photographs. Top photo: “Don’t glorify shooting people” [ photo of young African American men posing with guns]. Bottom photo “Then cry like a bitch when someone you love gets shot.” [photo of distraught African Americans apparently after a death]

**Given these three additional posts, coupled with the posts of other non-Caucasian individuals detailed in the discussion regarding people of the Muslim faith above, I find this to be true. While the complaint delineated these posts into two subgroups, I find a pervasive pattern of posts that depict**

**non-Caucasian people in a derogatory and demeaning way. The totality of these posts create an actual conflict.**

3. People who reside in the United States who are not documented with legal status  
**TRUE**

Attorney Doyle indicated during our meeting that he aggressively represented people who reside in the United States who are not documented with legal status.

The following post (summaries) were provided:

- i. Above a shared photo that states “What if Illegals Left?” Attorney Doyle wrote “.....with a boot in each ass out the door.” In comment section someone wrote: “You could fit at least twenty in your big Caddy for a drive to the border.” Attorney Doyle responded: “I’d give ‘em the Jimmy Hoffa treatment.”
- ii. Shared post: “Our Ancestors came to the country legally, adopted its culture, didn’t spit on country’s traditions, didn’t cost a dime to the federal government.”

**This situation differs from the previous situations, because not only were there two posts but there were statements made by Attorney Doyle in the Facebook publication. (See above) Given that these statements are made regarding people who reside in the United States who are not documented with legal status, coupled with the posts, a conflict exists.**

4. People who are non-cisgender **Inconclusive**

Attorney Doyle indicated that he does not discriminate against non-cisgender people and that he has homosexual friends.

The following post (summaries) were provided:

- i. Shared post: “If you belong in this bathroom” [photo of men’s bathroom sign] “and you follow my daughter or my wife into this bathroom” [photo of women’s bathroom sign] “you’re gonna need this bathroom” [photo of handicapped sign]
- ii. Shared post: “This is what bravery looks like [picture of soldiers in battle], not a man wearing a dress.”

**Unlike the multiple posts detailed above I am unable to conclude whether an actual conflict exists. There are two posts, and neither have comments. However, see the discussion below regarding an apparent conflict.**

- b. Apparent conflict. **TRUE**

It seems clear that in this situation if an actual conflict exists, an apparent conflict does as well. Therefore for each of the true findings discussed above, an apparent conflict exists as well.

An apparent conflict also exists with respect to people who are non Cisgender because of the publications detailed above.

2. He has a duty to refrain from representing clients in these classes due to his personal beliefs about them, which duty is inconsistent with the duty day assignment system. CPCS Performance Guideline Chapter IV: Part 1: General Principles of Representation. C: General Duties of Defense Counsel. "Counsel's primary and most fundamental responsibility is to promote and protect the client's interest. This includes honoring the attorney/client privilege, **respecting the client at all times**, and keeping the client informed of the progress of the case. **If personal reactions make it impossible for counsel to fulfill the duty of zealous representation, he or she has a duty to refrain from representing the client.**"(Emphasis added)

**Given the discussions above this is TRUE.**

3. He has failed to respect the client at all times "CPCS Performance Guideline Chapter IV: Part 1: General Principles of Representation C. General Duties of Defense Counsel, quoted above in part (2).

**Given the discussions above this is TRUE.**

4. Violation of Mass. R. Prof. C. 1.6

During the course of this investigation an additional violation was found.

Mass. R. Prof. C. 1.6 states in relevant part: **(a)** A lawyer shall not reveal confidential information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).

The following confidential communications were posted on the Facebook publication:

- a. In a comment to his post about winning a gun trial, Attorney Doyle wrote: "It was someone else's shotgun. Client not a bad guy." Someone commented: "Don't worry he'll be retaining you again soon. Job security." Attorney Doyle responded: "Absofuckinglutely right, Chief? Job security in the Roxbury district court"

**The statement “it was someone else’s shotgun” is a statement from the client. Even if this exists in the record, it is still covered under the rule.**

- b. In comment to a post about a not guilty at trial, Attorney Doyle wrote: “I went to the dark side.” A comment then asked about his client and Attorney Doyle responded: “He wanted his cell phones (with business contacts no doubt) and his baseball hats back. I told him to go home and Jerry off. ...Jerk off that is.”

**In this statement Attorney Doyle published a legal request that his client made. This is a direct violation of the rule.**

- c. “Yesterday a 21 y.o. punk client told me: “I don’t like your attitude, Doyle.” And in the comments section Attorney Doyle wrote “I told him to come back with a new lawyer or a toothbrush” and “Soap on a rope for a going away present.”

**In this statement Attorney Doyle published a conversation that his client had with him. This is a direct violation of the rule.**

In all three of these situations confidential information and communication is being published. Given the nature and dates of the statements, discovering the identity of the clients would be easily achieved. However, even if this were difficult, the rule still safeguards keeping this information confidential. Just because a fact resides in a public record, court file, or trial record, does not provide justification for revealing that fact in public. In two of the situations outlined above, it appears that the only reason for revealing the information was to demean the client and garner attention for himself. Attorney Doyle had a duty to maintain confidentiality in all of these situations, and by publishing this information, he violated the rule.

During the afternoon of 11/29/17 I again spoke with Attorney Doyle. He indicated that he was remorseful, and that he never intended for any clients to be hurt or offended. He also indicated that he had removed the Facebook publication from the internet.

The complaint was shared with Attorney Doyle by EMAIL on November 30, 2017, and he was given an opportunity to respond. On December 5, 2017, he provided the following response:

I have deleted my Facebook account. In accepting and sharing certain posts, it was never my intention to express open bigotry or sexism. I mistakenly thought I was conversing with friends, none of whom expressed their dislike of the content of what I did. Frankly, I thought this was protected, free speech, pursuant to rights guaranteed to me by the United States Constitution. Also, in discussing some cases (mostly post-verdict matters) with these friends, I NEVER named the client or divulged privileged information. In fact, it is something a number of my colleagues on Facebook have done, without any negative impact or results. Violating the Attorney-Client privilege is something I never

have and never will do. In contemplation of the behavior attributed to me, I have nothing but remorse and regret.

The bulk of my commentary was directed at Muslim terrorists, not Muslims in general. My commentary on Colin Kapernick had nothing to do with his race and everything about his disrespect for our National Anthem. I do not discriminate against any class of people. If I were that type of person, I wouldn't have spent the last 28 years of my life in the Roxbury District Court.

I have offered my resignation to both the Suffolk and Middlesex County programs. The matter is now beyond my control. Obviously, I would prefer a suspension with diversity / sensitivity training to the acceptance of my proffered resignation. Obviously, if that is not an option, I will suffer the consequences.

Thank you for your consideration of my response. Kindly convey it to those whom will decide my fate.

On December 6, 2017 I received a voicemail indicating that he no longer wished to resign, asking me to return the call. I returned the call and he indicated that he no longer wished to resign.

## Intake

---

**Attorney Name:** Doyle Jr, Richard M  
875 Mass Ave Ste 32  
Cambridge, Ma 02139

**Complaint ID:** C6872

**BBO:** 552133

**Attorney Phone:** (617) 864-1390

**Client:** N/A N/A

**Client Phone:**

**Complainant:**

**Complainant Phone:**

**Relationship to Client:** Cpcs Staff

**Why Client isn't calling:**

**Case Type:** N/A

**Bar Advocate Program:** Suffolk

**Complaint Type:** behavior

**Intake Date:** 11/27/2017

**Investigated By:**

**Complaint Received by:** Nancy Oleary

**Court:** Roxbury District Court - 539

**Next Court Date:**

**Purpose of next court date:**

## COMPLAINT C6872 SUMMARY:

Attorney Doyle is a member of the Middlesex Defense Attorneys and Suffolk Lawyers for justice. He takes cases out of the Suffolk and Middlesex courts.

Recently, Attorney Doyle's Facebook posts were brought to our attention. Attorney Doyle's Facebook is open to the public and it is under the name "Rich Doyle." He regularly posts about his work in the courts and, therefore, his public Facebook page is easily identified as one belonging to Attorney Richard Doyle, who practices in the Suffolk and Middlesex courts. Assigned clients, and any member of the public, can see the posts.

Attorney Doyle's Facebook posts describe certain classes of individuals, especially members of the Muslim faith, undocumented immigrants and people of color, in extremely derogatory and disrespectful ways. Substantial numbers of the individuals eligible for appointed counsel in the Middlesex and Suffolk courts where Attorney Doyle takes duty days are members of these classes. Individual members of these classes who see Attorney Doyle's posts would likely believe that his expressed contempt constitutes a conflict of interest depriving them of their right to counsel.

Attorney Doyle's posts raise concerns that:

- (1) He has an actual or apparent conflict of interest in representing members of these classes of individuals, in violation of the Massachusetts Rules of Professional Conduct and the CPCS Performance Standards. See Mass. R. Prof. C. 1.7 ("...A concurrent conflict of interest exists if... there is a **significant risk** that the representation of one or more clients will be materially limited by... a personal interest of the lawyer.") (Emphasis added.) See also comment [4] to Rule 1.7 ("Loyalty to a client is ... impaired when a lawyer cannot consider, recommend or carry out an appropriate course of action for the client because of the lawyer's other responsibilities or interests) and *Commonwealth v. Shraiar*, 397 Mass. 16, 20(1986) ("An actual or genuine conflict of interest arises where the independent professional judgment of trial counsel is impaired, either by his own interests, or by the interests of another client."). See also CPCS Performance Guideline Chapter IV: Part 1: General Principles of Representation. A: Role of Defense Counsel "Counsel must know and adhere to all applicable ethical opinions and standards and comply with the rules of the court."
- (2) He has a duty to refrain from representing clients in these classes due to his personal beliefs about them, which duty is inconsistent with the duty day assignment system. CPCS Performance Guideline Chapter IV: Part 1: General Principles of Representation. C: General Duties of Defense Counsel. "Counsel's primary and most fundamental responsibility is to promote and protect the client's interest. This includes honoring the attorney/client privilege, **respecting the client at all times**, and keeping the client informed of the progress of the case. **If personal reactions make it impossible for counsel to fulfill the duty of zealous representation, he or she has a duty to refrain from representing the client.**" (Emphasis added)

- (3) He has failed to respect the client at all times “CPCS Performance Guideline Chapter IV: Part 1: General Principles of Representation C. General Duties of Defense Counsel, quoted above in part (2).
- (4) Attorney Doyle’s public Facebook posts undermine the contractual duty of the Program to select and maintain a diverse panel of attorneys to represent assigned clients. See Article I, paragraph 3 and Article II, paragraph 9 of the Program’s contract with CPCS.

The classes of individuals at issue are the following:

- 1) Muslims and/or people of Arab descent, see attached screen shots:
  - a. Shared post of back end of very large pig with testicles hanging out “Dear Muslims ... Kiss our big bacon balls ”
  - b. Shared post with quote from a Canadian Hockey Announcer “If hooking up one raghead terrorist prisoner’s testicles to a car battery to get the truth out of the lying little camel shagger will save just one Canadian life .....
  - c. Shared post “You tell those goat fuckers with the laundry on their heads that its wash day and were bringing the fucking Maytag!”
  - d. Facebook post “Allah be praised. Go meet your 72 fat, smelly virgins, asshole.” And the shared picture says “When goat fuckers use mortar hahaha”
  - e. Shared post: “In Islam, you have to die for Allah. The God I worship died for me.”
  - f. Shared post “Lets not jump to conclu.....aaaaaand its Muslims”
  - g. Shared post: “When liberals aren’t busy bashing peaceful Christians, they’re making excuses for Muslims cutting people’s heads off”
- 2) Undocumented and/ other immigrants, see attached screen shots:
  - a. Above a shared photo that states “What if Illegals Left?” Attorney Doyle wrote “.....with a boot in each ass out the door.” In comment section someone wrote: “You could fit at least twenty in your big Caddy for a drive to the border.” Attorney Doyle responded: “I’d give ‘em the Jimmy Hoffa treatment.”
  - b. Shared post: “Our Ancestors came to the country legally, adopted its culture, didn’t spit on country’s traditions, didn’t cost a dime to the federal government.”
- 3) African-Americans, see attached screen shots:
  - a. Shared post “Colin Kaepernick the Waterboy” depicting Colin Kaepernick as a waterboy.
  - b. Shared post: “5 minutes after Trump legalizes weed in all 50 states” [photos show African American men in Trump shirts and hats]
  - c. Shared post depicts two photographs. Top photo: “Don’t glorify shooting people” [ photo of young African American men posing with guns]. Bottom photo “Then cry like a bitch when someone you love gets shot.” [photo of distraught African Americans apparently after a death]

4) Transgendered individuals:

- a. Shared post "If you belong in this bathroom [photo of men's bathroom sign] and you follow my daughter or my wife into this bathroom" [photo of women's bathroom sign] "you're gonna need this bathroom" [photo of handicapped sign]
- b. Shared post: This is what bravery looks like [picture of soldiers in battle]. Not a man wearing a dress"

In investigating this apparent misconduct, the Supervising Attorney should also consider some of Attorney Doyle's other posts about his clients, see attached screen shots:

- a. In a comment to his post about winning a trial, Attorney Doyle wrote: "I can walk away from this one without feeling dirty. Doesn't happen much"
- b. In a comment to his post about winning a gun trial, Attorney Doyle wrote. "It was someone else's shotgun. Client not a bad guy." Someone commented: "Don't worry he'll be retaining you again soon. Job security." And Attorney Doyle responded: 'Absofuckinglylutely right, Chief? Job security in the Roxbury district court"
- c. In comment to a post about a not guilty at trial, Attorney Doyle wrote: "I went to the dark side" A comment then asked about his client and Attorney Doyle responded: "He wanted his cell phones (with business contacts no doubt) and his baseball hats back. I told him to go home and Jerry off. ...Jerk off that is."
- d. Check in at the Suffolk Superior Court, Attorney Doyle wrote: "Poor, misguided children." Someone commented: "You should take them as foster kids..." Attorney Doyle responded: " NFW"
- e. Check in at the Suffolk County Court, Attorney Doyle wrote: "Assorted thugs and bad guys"
- f. "Yesterday a 21 y.o. punk client told me: "I don't like your attitude, Doyle." And in the comments section Attorney Doyle wrote "I told him to come back with a new lawyer or a toothbrush" and "Soap on a rope for a going away present."



September 19, 2015 • 

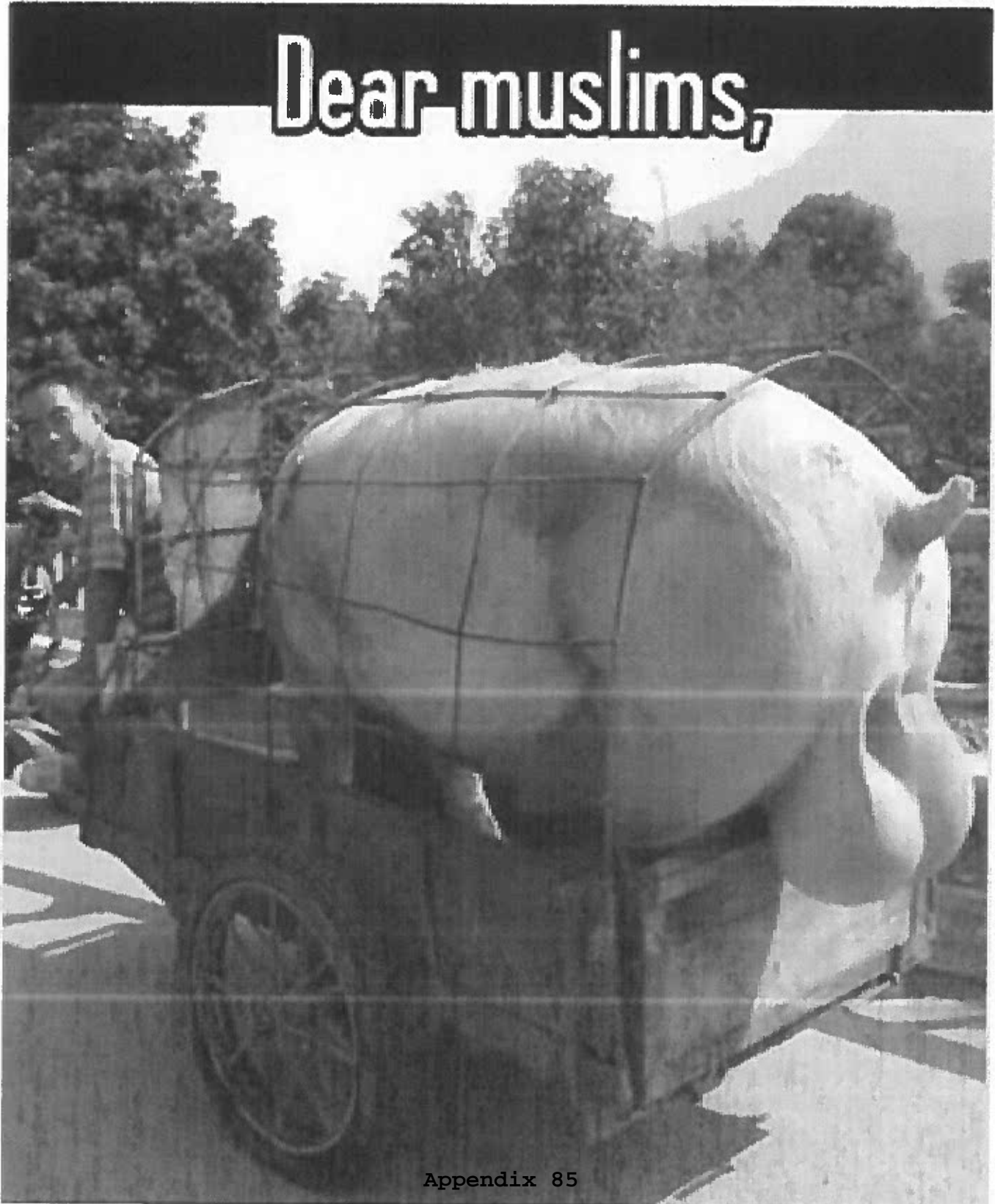


**Lupe Reyes**

September 19, 2015 • 



# Dear muslims,



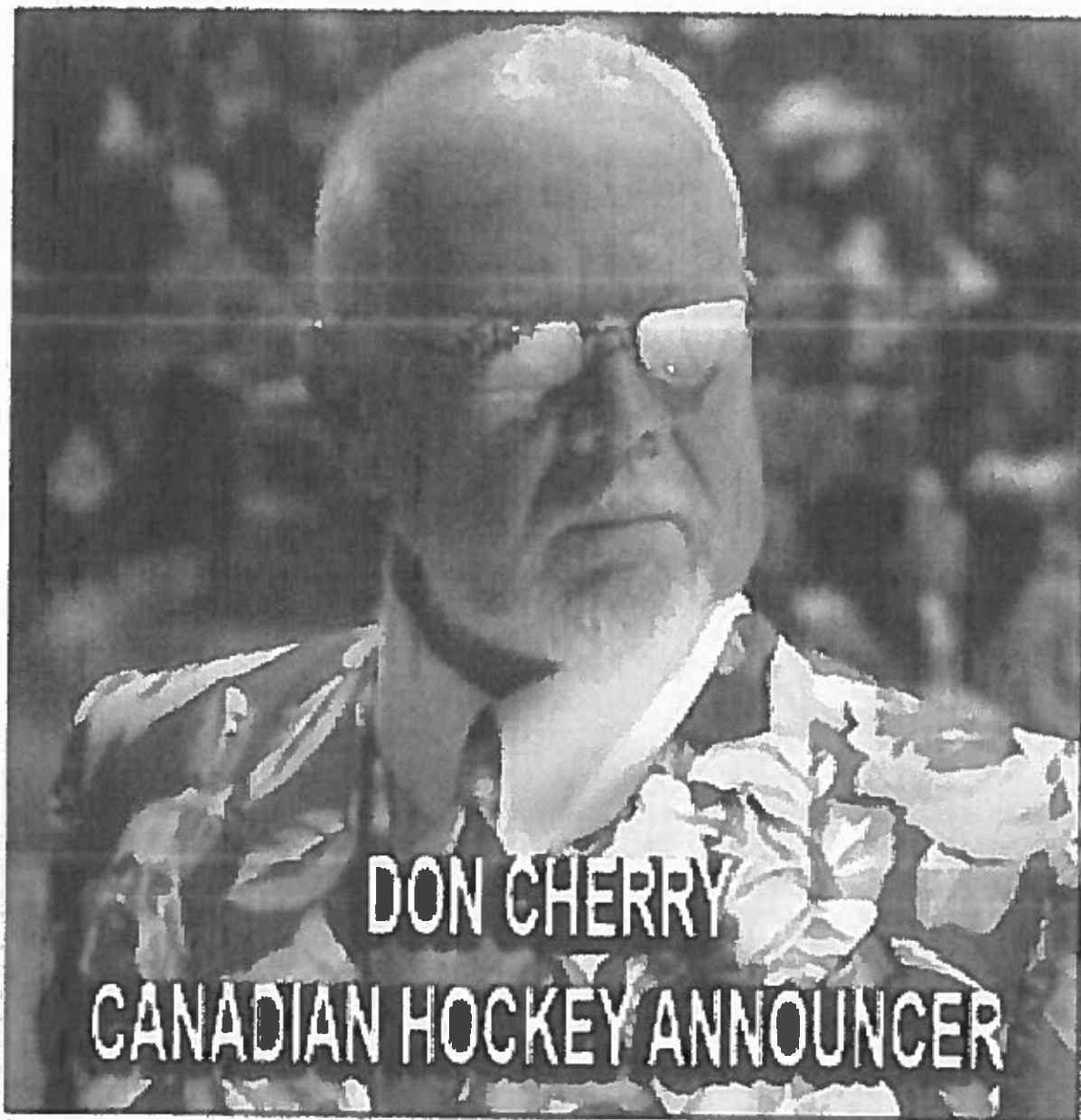
**Dear muslims,**



**Kiss our big bacon balls.**



I just became a bigger Hockey fan.....I guess Canadians want to protect their citizens, I wish our government would protect... Continue Reading



**DON CHERRY**  
**CANADIAN HOCKEY ANNOUNCER**

www.AMERICANSTRONG.com

"If hooking up one raghead terrorist prisoner's testicles to a car battery to get the truth out of the lying little camel shagger will save just one Canadian life, then I



3 Intro

- 3 Worked at Self Employed Attorney
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3 Photos



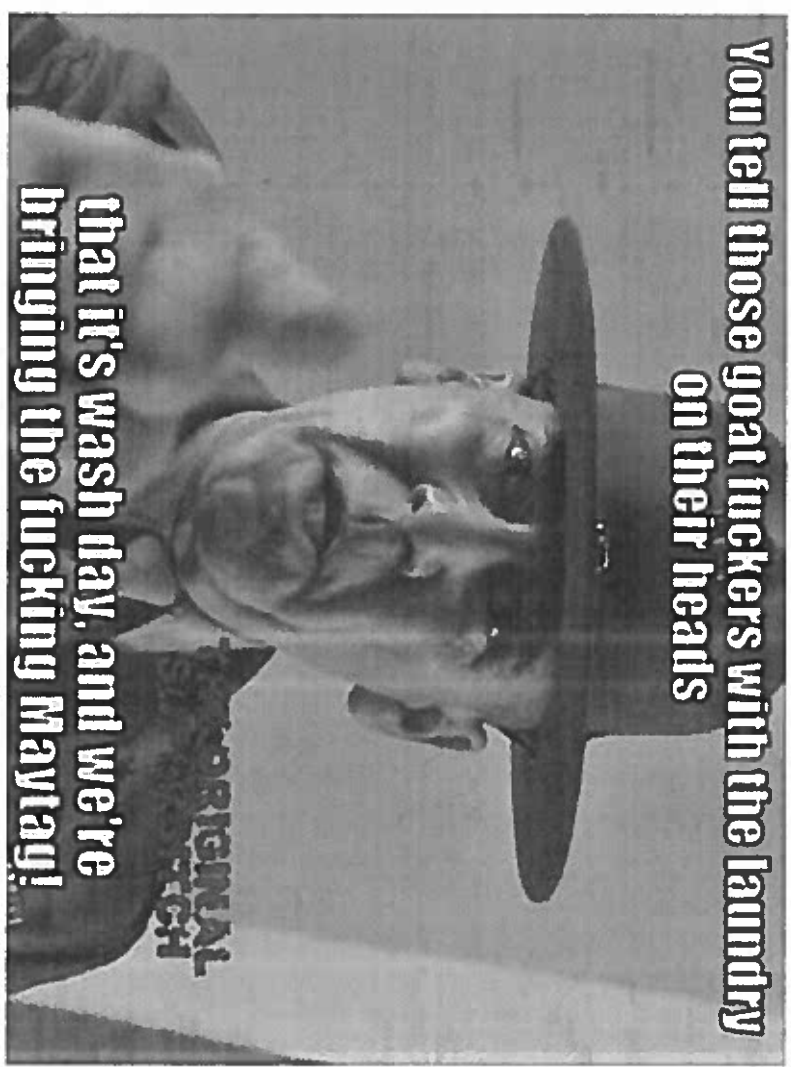
Like Share

31

- Cheryl Devinney Exadly!!  
Like 1 · November 17, 2015 at 8:51am
- Cheryl Devinney Rest in peace my dear friend. May God Bless you always.  
Like 1 · November 17, 2015 at 8:51am

Rich Doyle shared Lupe Reyes's post  
November 16, 2015 ·

...



Lupe Reyes is with Rich Doyle and 3 others.  
November 15, 2015 ·

Share



Friends - 698 (1 Mutual)

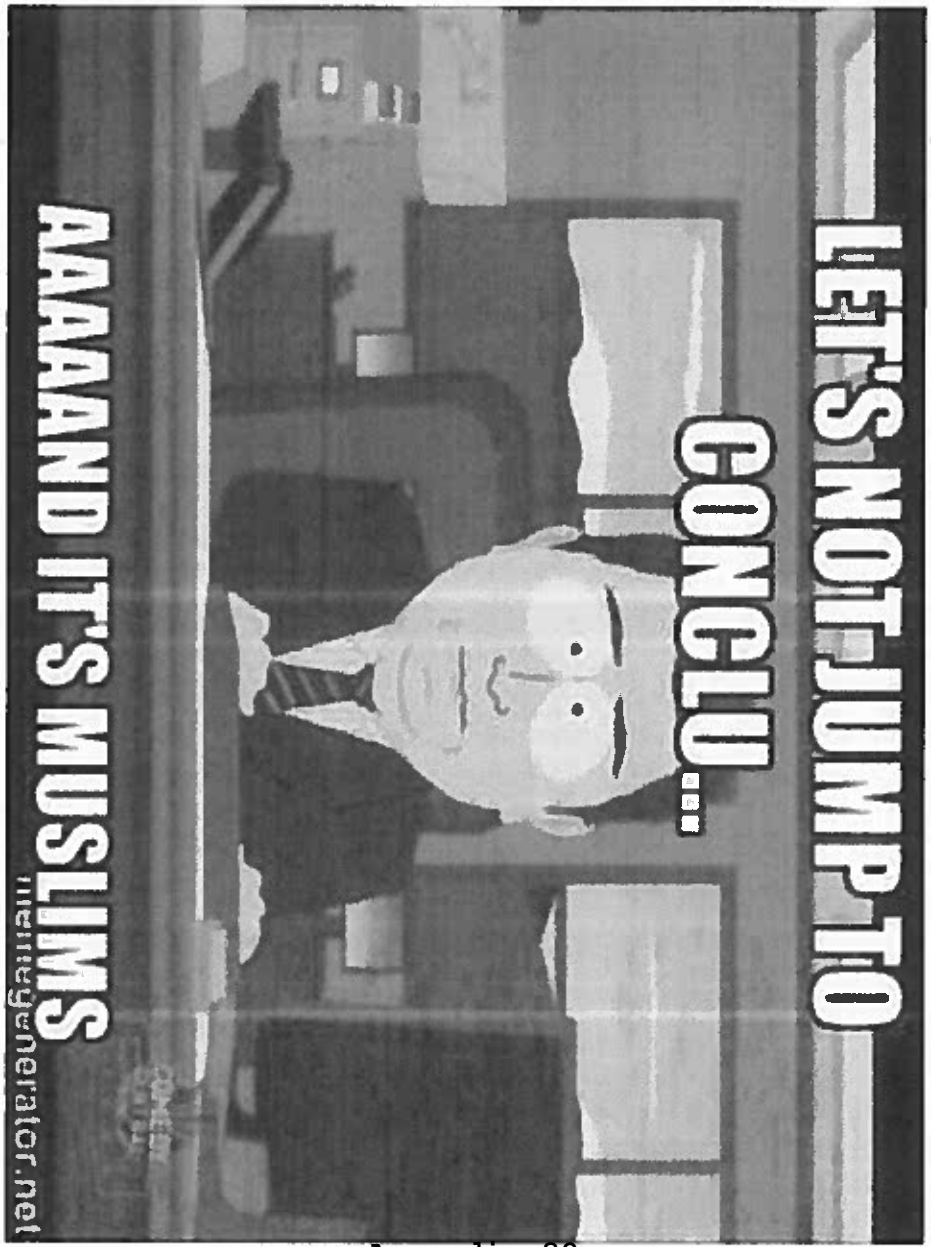


See what you have in common with Rich's friends.

View



Rich Doyle shared Chris Flaherty's photo.  
December 4, 2015 ·



Chris Flaherty  
December 3, 2015 ·

Share





**Rich Doyle** shared **The Comical Conservative's** photo.



April 3, 2015 · 🌐

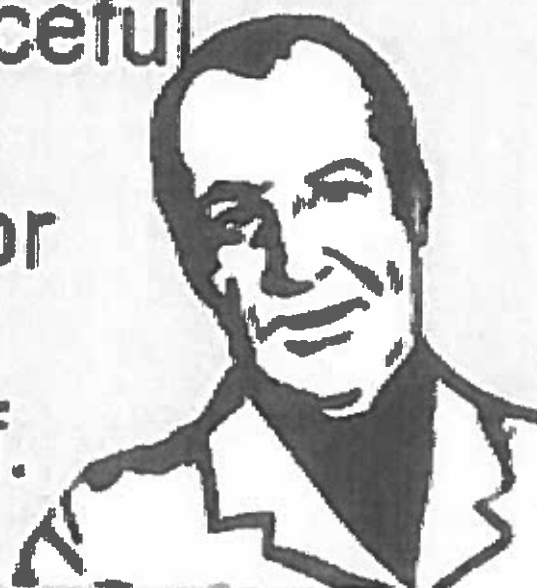


**The Comical Conservative**

February 19, 2015 · 🌐



When liberals aren't busy bashing peaceful Christians, they're making excuses for Muslims cutting people's heads off.



Share



**Jereem Langlais** ► **Rich Doyle**



April 3, 2015 · Boston, MA · 🌐



Rich Doyle Timeline ▾ 2016 ▾ All Posts ▾

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Like Reply October 8, 2016 at 9:15am

Write a comment...



Rich Doyle shared AskDrBrown's photo

October 7, 2016 · 🌐

...



AskDrBrown  
October 1, 2016 · 🌐

👍 Like Page

👍 Like    💬 Comment    ➦ Share

👍 15

👤 Friends 698 (1 Mutual)



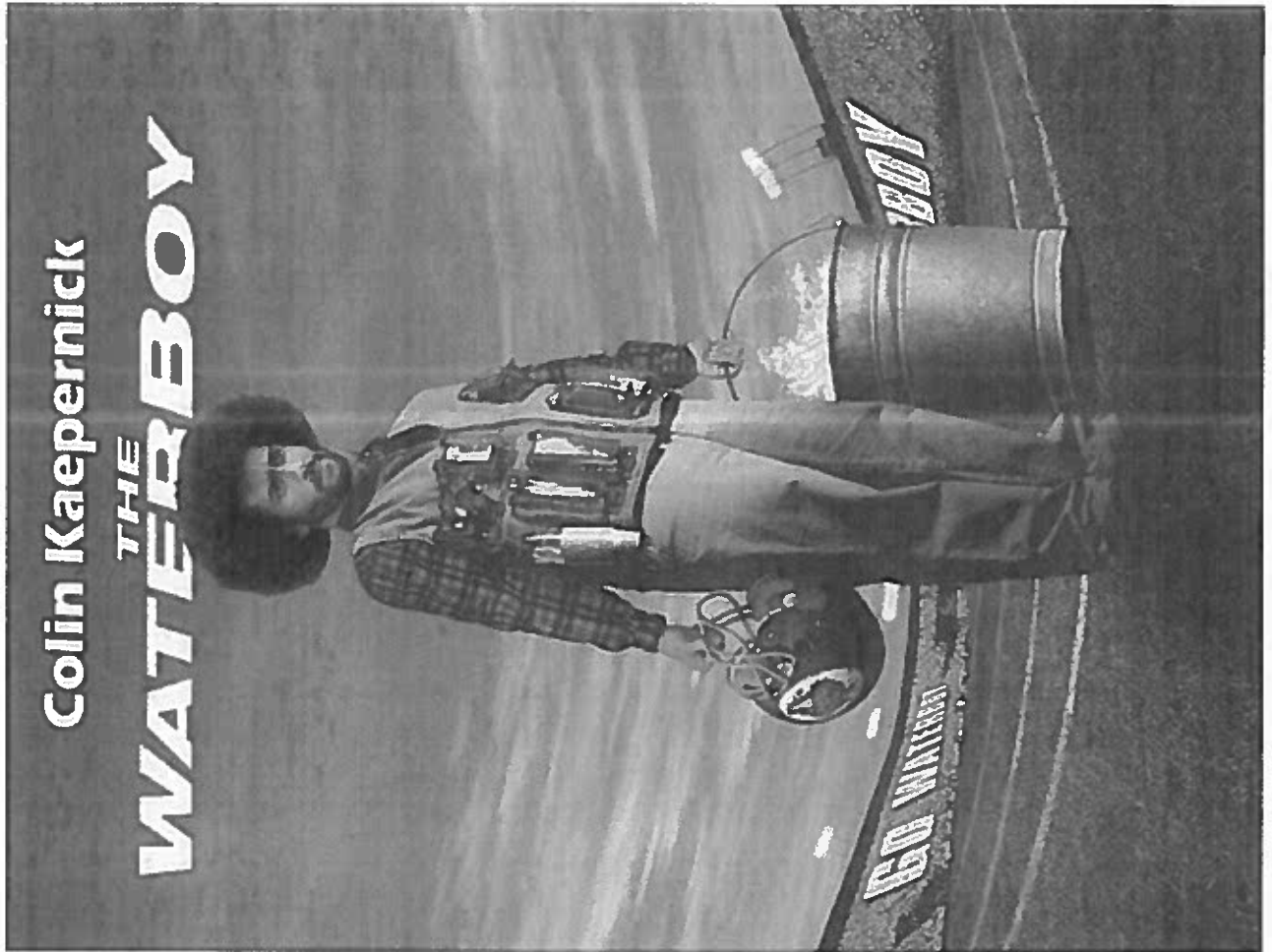
👤 See what you have in common with Rich's friends.

View

👤 Featured Albums

Rich Doyle shared Mike's Corner's post.

September 4



Like Page

Mike's Corner  
September 1



Friends 698 (1 Mutual)



See what you have in common with Rich's friends.

View

Featured Albums

English (US) Español · Português (Brasil)



 Friends 698 (1 Mutual)



 See what you have in common with Rich's friends

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Facebook © 2017

 Share

 Rich Doyle shared Lupe Reyes's post  
February 7 · 🌐

5 minutes after Trump legalizes weed in all 50 states.



Lupe Reyes  
February 6 · 🌐

 Like  Comment  Share

 1

 Write a comment...



Rich Doyle Timeline 2016 All Posts

Add Friend



September 25, 2016 at 10:52am



Rich Doyle shared Uncle Sam's Misguided Children's photo

September 23, 2016



Friends · 698 (1 Mutual)



See what you have in common with Rich's friends.

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Featured Albums

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Uncle Sam's Misguided Children is with Carolyn Ray

Like Page



Friends 698 (1 Mutual)



See what you have in common with Rich's friends.



View

Featured Albums

English (US) · Español · Português (Brasil) · Français (France) · Deutsch



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Rich Doyle shared The Revolution's photo

October 3, 2014 ·

... with a boot in each ass out the door.

# WHAT IF ILLEGALS LEFT?



The Revolution is with Trisha Fisher and 10 others  
September 29, 2014 ·



Like Page

What if the illegals left?

Somebody really did their homework on this one. Best on the subject to present date.

What if 20 Million Illegal Aliens Vacated Americ...

See More



Share



2



Sean Doherty Rich you could fit at least twenty in your big Caddy for a drive to the border!

October 3, 2014 at 8:37am



Rich Doyle Id give 'em the Jimmy Hoffa treatment.

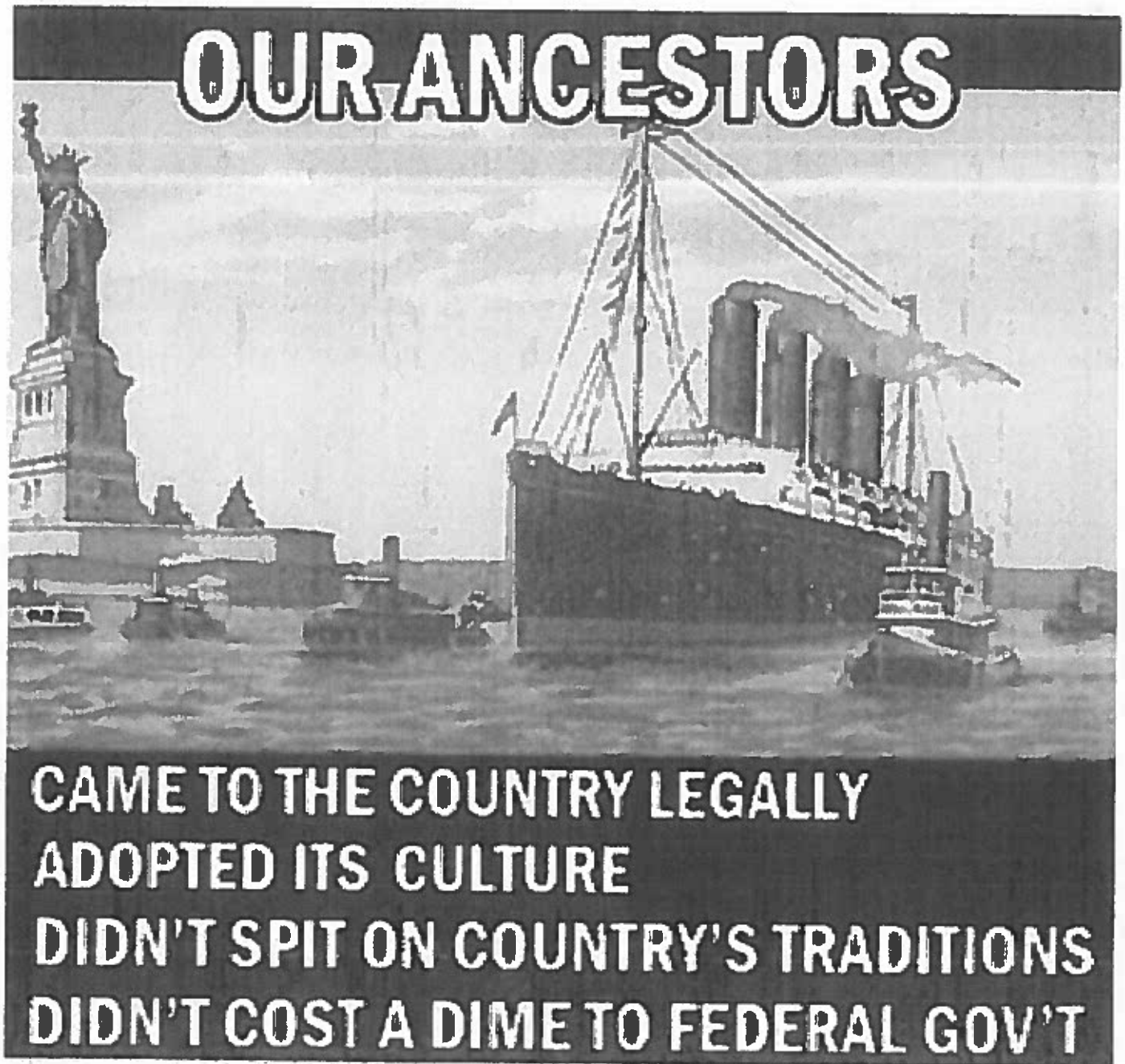


**Deplorables**

September 14 at 4:36 PM · 🌐



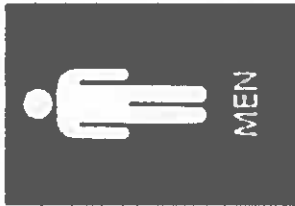
Yep!



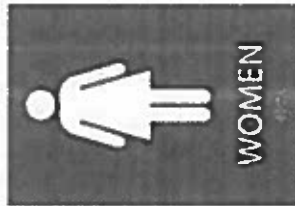
Rich Doyle shared Ellis Mattison Jr.'s post

May 18, 2016

IF YOU BELONG IN THIS BATHROOM



AND YOU FOLLOW MY DAUGHTER  
OR MY WIFE INTO THIS BATHROOM



YOU'RE GONNA NEED THIS BATHROOM



Ellis Mattison Jr. is with Nick Schulte and Nigel McGarry.

May 17, 2016



Friends 698 (1 Mutual)



See what you have in common with Rich's friends

View

Featured Albums

English (US) - Español - Português (Brasil)





Friends · 698 (1 Mutual)



See what you have in common with Rich's friends.

[View](#)

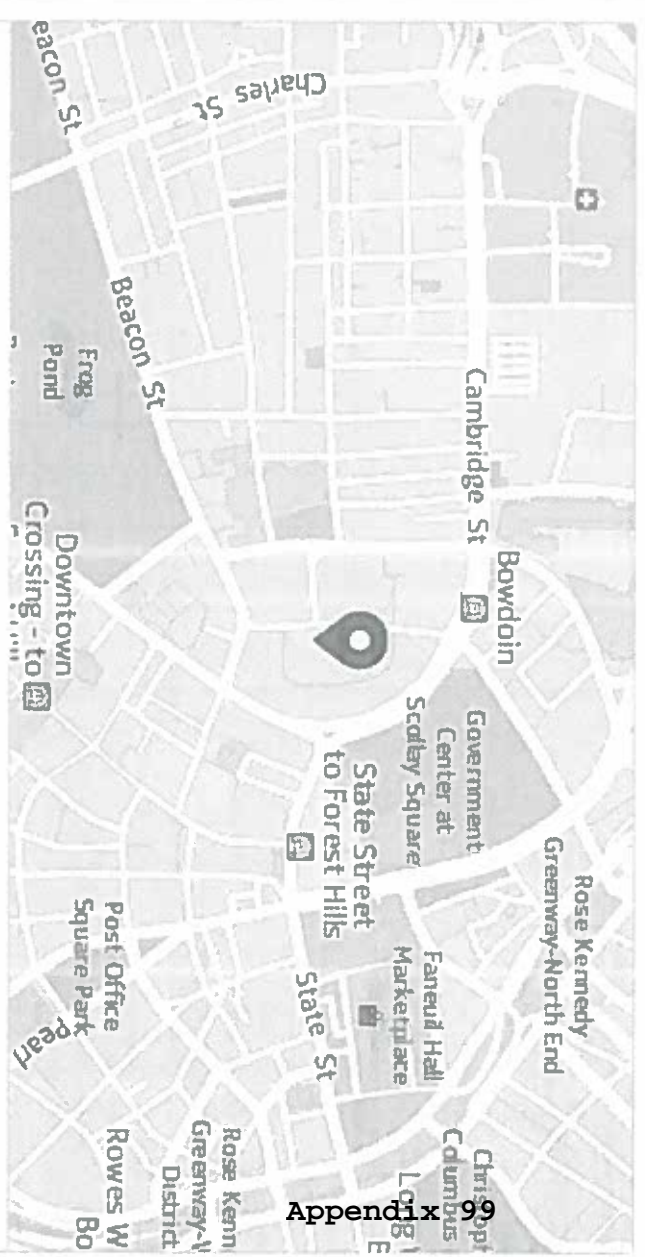
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9



**Rich Doyle** is at **Suffolk County Courthouse**.  
January 8, 2015 · Boston, MA ·

Assorted thugs and bad guys.



**Suffolk County Courthouse**  
Government Organization · Boston, MA  
Shira Diner has been here

[Save](#)

[Share](#)

11



**21** Friends · 698 (1 Mutual)



See what you have in common with Rich's friends.

**View**

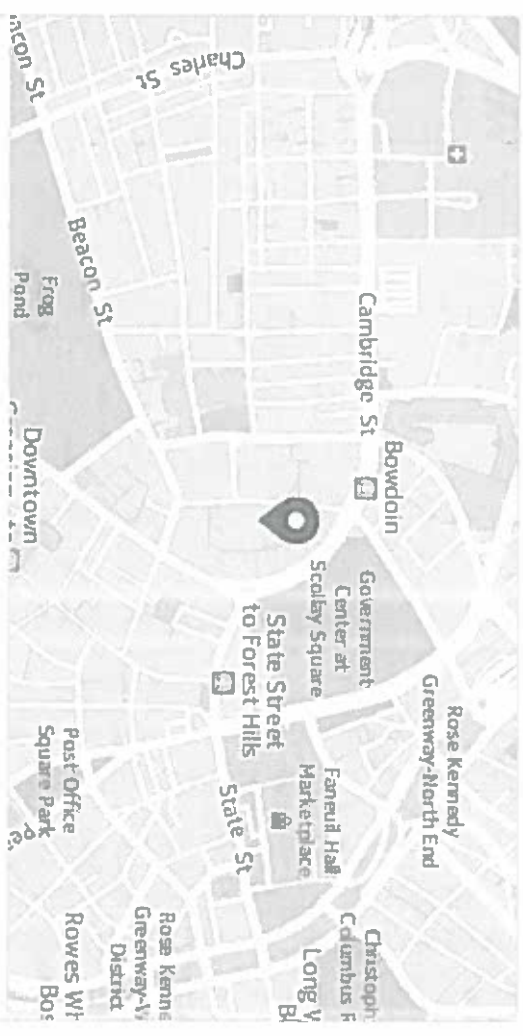
**Featured Albums**

English (US) · Español · Português (Brasil) · Français (France) · Deutsch

**+**

**Rich Doyle** is at **Suffolk County Superior Court**  
November 6, 2015 Boston, MA

**Poor, misguided children.**



**Suffolk County Superior Court**  
Government Organization · Boston, MA

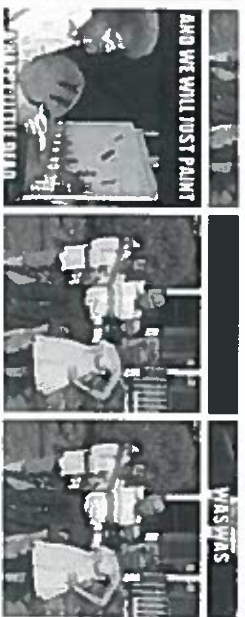
477 people checked in here

**Save**

**Share**

**9**

- Garrett Fx Crowley Poor babies**  
November 6, 2015 at 11:15am
- Rich Doyle Waaaaahhhhhhhhhhh**  
1 · November 6, 2015 at 11:16am
- Matt Judge You should take them as foster kids ...**  
1 · November 6, 2015 at 1:47pm
- Rich Doyle NFW.**
- 4 · November 6, 2015 at 1:55pm



## Friends 698 (1 Mutual)



See what you have in common with Rich's friends

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December 17, 2015 · Boston, MA

# Not guilty. (About f@#king time).

Share

24

**Matt Judge** I was innocent.

1 December 17, 2015 at 7:08pm

**John Lelacheur** Did you finally win a case?

1 December 17, 2015 at 8:08pm

**Rich Doyle** Yeah, finally.

3 December 17, 2015 at 8:43pm

**Rich Doyle** The Mass. States were profiling again.

December 17, 2015 at 8:44pm

**Mark Phillips** So what's the problem when I was in Los Angeles profiling =probable cause

1 December 17, 2015 at 8:48pm

**Edward Gately** Wow "I beat that shit"? You're Good"

1 December 17, 2015 at 8:55pm

**John Lelacheur** Bad people do bad things and nothing good happens after midnight

2 December 17, 2015 at 9:00pm

**Rich Doyle** 76 yo Italian national stopped for speeding. Instant language barrier and personality conflict. No FS tests or BT. Client gave attitude @ scene. Got lugged. Good defense witnesses. Happy ending for a harmless old man whom wouldn't swat a mosquito.

9 December 17, 2015 at 9:34pm

**John Lelacheur** Okay good job counselor.

2 December 17, 2015 at 9:35pm

**Rich Doyle** I can walk away from this one without feeling dirty. Doesn't happen much.

3 December 17, 2015 at 9:37pm

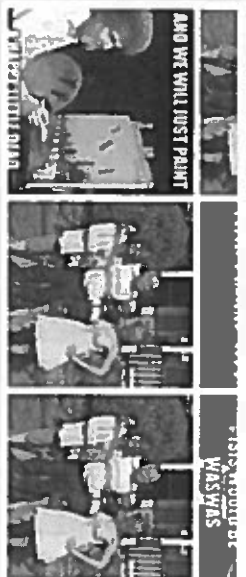
**Dave McDonough** U love bathing in the filth, as long as it's green.

December 17, 2015 at 10:24pm

**Rich Doyle** Hell yeah.

December 18, 2015 at 9:31am

**John Lelacheur** I just hope he doesn't take out a family of 4 next week



## Friends · 698 (1 Mutual)



See what you have in common with Rich's friends.


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**Rich Doyle**  
June 15, 2016 · 🌐

# Beat another gun case today.

[Share](#)

 David Grimaldi and 44 others

 Harris Jordan Oh, the liberal Democrats will love to hear that. Congrats.

 2 · June 15, 2016 at 4:26pm  
 Kevin Eric Granum One. Well the way I figured if someone in Florida had his gun then at least they can return fire. 2 nd amendment please.

 1 · June 15, 2016 at 5:08pm

 Rich Doyle Long live the NRA!!!

 3 · June 15, 2016 at 4:27pm

 Nancy Hurley Congrats!

 1 · June 15, 2016 at 4:28pm

 Lawrence Kelly Congratulations !!

 1 · June 15, 2016 at 4:30pm

 Peter Moccio NRA for president!!


June 15, 2016 at 4:35pm

 Dave McDonough Lunch bags all around hahai


June 15, 2016 at 4:37pm

 Arnold Cohen Congratulations! Out of curiosity, where was the gun found?

June 15, 2016 at 4:44pm

 Rich Doyle · 12 ga shotgun across the back seat, totally covered by a towel. I put client on. Denied knowledge.


June 15, 2016 at 5:42pm

 Mark Levesque What was the case? Tell me it was a law abiding citizen trapped in the net of zero tolerance, not a scumbag perp who skated on the mandatory weapons charge.

 1 · June 15, 2016 at 5:00pm

 Rich Doyle It was someone else's shotgun. Client not a bad guy.

 1 · June 15, 2016 at 5:43pm

 Kevin Eric Granum One defense attorney s do that that is what they paid for who defended Oliver North. There was no epidemic then Right

 1 · June 15, 2016 at 7:47pm



Rich Doyle Timeline ▾ 2016 ▾ All Posts ▾

+ Add Friend



towel I put client on. Denied knowledge.  
June 15, 2016 at 5:42pm



Mark Levesque What was the case? Tell me it was a law abiding citizen trapped in the net of zero tolerance, not a scumbag perp who skated on the mandatory weapons charge.

1 June 15, 2016 at 5:00pm

Rich Doyle It was someone else's shotgun. Client not a bad guy.

1 June 15, 2016 at 5:43pm

Kevin Eric Grannum One defense attorney's do that that is what they paid for who defended Oliver North. There was no epidemic then Right

1 June 15, 2016 at 7:47pm



John LeLacheur Don't worry he'll be retaining you again soon. Job security

June 15, 2016 at 5:54pm

Rich Doyle Absolutely right, Chief! Job security in the Roxbury District Court

1 June 15, 2016 at 5:56pm



George Pressly Don't you mean "I beat off with my gun today". Just checking.

June 15, 2016 at 5:55pm

Rich Doyle That too. Don't tell.

June 15, 2016 at 5:57pm



Roland Bosse Great work long live the 2nd amendment and the NRA!

2 June 15, 2016 at 6:22pm



Rich Doyle Amen.

June 15, 2016 at 7:03pm



Judy DiAferio McAvoY Awesome! You are a great a Lawyer Rich Doyle!

1 June 15, 2016 at 8:12pm



Daniel P. McMorroW It happens all the time, why would someone have knowledge of a little shotgun hidden under a towel in the backseat???

June 15, 2016 at 11:00pm



Rich Doyle I guess he got the benefit of the doubt.

June 16, 2016 at 10:17am

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See what you have in common with Rich's friends.

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## Intro

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- Married
- From West Roxbury, Massachusetts



## Photos



**Rich Doyle**  
March 22, 2014

Yesterday, a 21 y.o. punk client told me: "I don't like your attitude, Doyle."

Share

29

**Jeff Moskowitz** And then what happened?  
March 22, 2014 at 10:22am · 2

**Matt Judge** I lend to agree with the punk..you do have a poor attitude...lol  
March 22, 2014 at 10:24am · 1

**John Skaltsas** A dope slap behind a building OR did your fee go up LMAO  
March 22, 2014 at 10:27am · 2

**Katharine Doyle MacLeod** Wicked loud LOL!!  
March 22, 2014 at 10:36am · 1

**Kelly Haynes** Oh dear...was he then shown what a real bad attitude looks like?  
March 22, 2014 at 10:40am · 2

**Paul Parent** wheres the kid now?!!mao  
March 22, 2014 at 10:40am · 3

**Sean Doherty** I captured some footage of the encounter Rich:  
<https://www.youtube.com/watch?v=8Xjr2hOHI14>



**Dirty Harry Do You ( I ) Feel Lucky Punk? ( HD )**

Dirty Harry shood out scene. A San Francisco cop with...  
YOUTUBE.COM

March 22, 2014 at 10:44am · 3

**Allison S. Cartwright** You'd better check that attitude, or he'll fire you from being his highly paid court-appointed attorney! Lol.  
March 22, 2014 at 10:46am · 4

**Greg Gentile** Smahl kid  
March 22, 2014 at 10:47am · 1

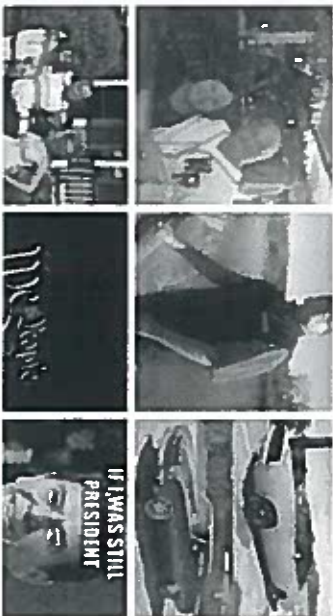
**Pam Harris** Proper response: thats too bad because you are then really gonna

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## Photos



**Brian Fahy** Fair point, no?   
 March 22, 2014 at 11:51am · 1

**George Pressly** That's why they invented "retainers"   
 March 22, 2014 at 12:08pm · 2

**Tim Bennett** Sarge, hope you said "Who gives a F&K what you don't like?"   
 March 22, 2014 at 12:35pm · 2

**Laurence Cole** Classic   
 March 22, 2014 at 1:30pm · 1

**James D. McCarthy** Ill Sounds like a candidate for an orange jumpsuit   
 March 22, 2014 at 1:52pm · 1

**Rich Doyle** I told him to come back with a new lawyer or a toothbrush.   
 March 22, 2014 at 3:41pm · 8

**Rachel Self** Can't make it up. My clients have yet to complain about my attitude, but I have been told, "blitch! You on clown time." Whatever that means...lol, I actually loved the comment and despite having no idea what "clown time" is...I accuse people of being on it when I don't like their attitude.   
 March 22, 2014 at 4:28pm · 3

**Julia Kanno** Tlou And enlighten me with your response!   
 March 22, 2014 at 6:26pm · 1

**Rich Doyle** Scroll up and you'll find it   
 March 22, 2014 at 6:27pm

**Julia Kanno** Tlou Okay well that's better than a patient looking at my haircut and asking me "did you have brain surgery?"   
 March 22, 2014 at 6:33pm · 1

**Ken Kwiatkowski** Double his retainer fee and if he complains re-double it.   
 March 22, 2014 at 8:09pm · 1

**David H Willett** Tell the punk to shut up our he'll end up in a cell with Bubba the Love Spung who will change his attitude!   
 March 23, 2014 at 8:52am · 1

**Rich Doyle** ... soap on a rope for a going away present...   
 March 23, 2014 at 11:13am · 1

**Harris Jordan** You should have said to him in a "Dirty Harry" tone, "well punk, do you feel lucky? You can represent yourself, well punk?"   
 March 23, 2014 at 5:30pm · 1

**Arnold Cohen** I had one who refused to come to the office. All he literally had to do was cross the street (West Broadway) in order to meet with me. After his third or fourth rearrest, the judge in South Boston revoked his bail about a week or so before the next date... See More



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### Photos



**Rich Doyle**  
March 18, 2016

Not Guilty. Firearm. Makes you feel a whole lot safer, huh?

Share

26

1 Share

**Matt Judge** If you only used your powers for good rather than evil...

**Rich Doyle** I went to the dark side.

**Matt Judge** Lol he doesn't know you're home address right? Probably pissed you didn't get the gun back for him

**Rich Doyle** He wanted his cell phones (with business contacts, no doubt) and his baseball bats back. I told him to go home and Jerry off.

**Rich Doyle** Jerk off, that is.

**Paul Parent** hahahahahahaha

**Lupe Reyes** But we live on the Rez were everyone is packing

**Rich Doyle** Gotta have a license to carry in Boston. Tough gun laws here. I just saved years off the kid's ass. Between you and me, he should stop gang-banging. He spent 7 months in the can until today.

**Brendan King** Good Job Rich. Go Celebrate.

**Rich Doyle** Indeed.

**Anthony Elison** Zealot!

**Rich Doyle** Piece of sweet ass. batw hov Piece of sweet ass.

# Investigation

---

**Attorney Name:** Doyle Jr, Richard M  
875 Mass Ave Ste 32  
Cambridge, Ma 02139

**Complaint ID:** c6872

**BBO:** 552133

**Attorney Phone:** (617) 864-1390

**Client:** N/A N/A

**Client Phone:**

**Complainant:**

**Complainant  
Phone:**

**Relationship to  
Client:** Cpcs Staff

**Why Client isn't  
calling:**

**Case Type:** N/A

**Complaint Type:** behavior

**Over 30 Reason:** No

**Referral Date:**

**Perform  
Evaluation:**

**Intake Date:** 11/27/2017

**Evaluation  
Conducted:** ☐

**Investigated By:** [REDACTED]

**Disposition:** Remove From Court/Panel

**Complaint  
Received by:** Nancy Oleary

**Dispo Review  
Date:** 12/05/2017

**Court:**

**Status:** Closed

**Next Court Date:** 08/21/2017

**Purpose of next  
court date:**

**Summary:** "Supervising Attorney [REDACTED] assigned to investigate."

Standards. See Mass. R. Prof. C. 1.7 ( A concurrent conflict of interest exists if there is a significant risk that the representation of one or more clients will be materially limited by a personal interest of the lawyer. )(Emphasis added.) See also comment [4] to Rule 1.7 ( Loyalty to a client is ... impaired when a lawyer cannot consider, recommend or carry out an appropriate course of action for the client because of the lawyer's other responsibilities or interests) and Commonwealth v. Shraiar, 397 Mass. 16, 20(1986) ( An actual or genuine conflict of interest arises where the independent professional judgment of trial counsel is impaired, either by his own interests, or by the interests of another client.). See also CPCS Performance Guideline Chapter IV: Part 1: General Principles of Representation. A: Role of Defense Counsel Counsel must know and adhere to all applicable ethical opinions and standards and comply with the rules of the court.

(2) He has a duty to refrain from representing clients in these classes due to his personal beliefs about them, which duty is inconsistent with the duty day assignment system. CPCS Performance Guideline Chapter IV: Part 1: General Principles of Representation. C: General Duties of Defense Counsel. Counsel's primary and most fundamental responsibility is to promote and protect the client's interest. This includes honoring the attorney/client privilege, respecting the client at all times, and keeping the client informed of the progress of the case. If personal reactions make it impossible for counsel to fulfill the duty of zealous representation, he or she has a duty to refrain from representing the client. (Emphasis added)

(3) He has failed to respect the client at all times CPCS Performance Guideline Chapter IV: Part 1: General Principles of Representation C. General Duties of Defense Counsel, quoted above in part (2).

(4) Attorney Doyle's public Facebook posts undermine the contractual duty of the Program to select and maintain a diverse panel of attorneys to represent assigned clients. See Article I, paragraph 3 and Article II, paragraph 9 of the Program's contract with CPCS.

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- a. Shared post of back end of very large pig with testicles hanging out Dear Muslims Kiss our big bacon balls
- b. Shared post with quote from a Canadian Hockey Announcer If hooking up one raghead terrorist prisoner's testicles to a car battery to get the truth out of the lying little camel shagger will save just one Canadian life ..
- c. Shared post You tell those goat fuckers with the laundry on their heads that its wash day and were bringing the fucking Maytag!
- d. Facebook post Allah be praised. Go meet your 72 fat, smelly virgins, asshole. And the shared picture says When goat fuckers use mortar hahaha
- e. Shared post: In Islam, you have to die for Allah. The God I worship died for me.
- f. Shared post Lets not jump to conclu .aaaaaand its Muslims
- g. Shared post: When liberals aren't busy bashing peaceful Christians, they're making excuses for Muslims cutting people's heads off

2) Undocumented and/ other immigrants, see attached screen shots:

- a. Above a shared photo that states What if Illegals Left? Attorney Doyle wrote with a boot in each ass out the door. In comment section someone wrote: You could fit at least twenty in your big Caddy for a drive to the border. Attorney Doyle responded: I'd give em the Jimmy Hoffa treatment.
- b. Shared post: Our Ancestors came to the country legally, adopted its culture, didn't spit on country's traditions, didn't cost a dime to the federal government.

photo of young African American men posing with guns]. Bottom photo then cry like a bitch when someone you love gets shot. [photo of distraught African Americans apparently after a death]

4) Transgendered individuals:

a. Shared post If you belong in this bathroom [photo of men's bathroom sign] and you follow my daughter or my wife into this bathroom [photo of women's bathroom sign] you're gonna need this bathroom [photo of handicapped sign]

b. Shared post: This is what bravery looks like [picture of soldiers in battle]. Not a man wearing a dress

In investigating this apparent misconduct, the Supervising Attorney should also consider some of Attorney Doyle's other posts about his clients, see attached screen shots:

a. In a comment to his post about winning a trial, Attorney Doyle wrote: I can walk away from this one without feeling dirty. Doesn't happen much

b. In a comment to his post about winning a gun trial, Attorney Doyle wrote. It was someone else's shotgun. Client not a bad guy. Someone commented: Don't worry he'll be retaining you again soon. Job security. And Attorney Doyle responded: Absofuckinglutely right, Chief? Job security in the Roxbury district court

c. In comment to a post about a not guilty at trial, Attorney Doyle wrote: I went to the dark side A comment then asked about his client and Attorney Doyle responded: He wanted his cell phones (with business contacts no doubt) and his baseball hats back. I told him to go home and Jerry off. Jerk off that is.

d. Check in at the Suffolk Superior Court, Attorney Doyle wrote: Poor, misguided children. Someone commented: You should take them as foster kids Attorney Doyle responded: NFW

e. Check in at the Suffolk County Court, Attorney Doyle wrote: Assorted thugs and bad guys

f. Yesterday a 21 y.o. punk client told me: I don't like your attitude, Doyle. And in the comments section Attorney Doyle wrote I told him to come back with a new lawyer or a toothbrush and Soap on a rope for a going away present.

**Determination:** True

**Determination Basis:** A complaint was issued regarding Attorney Richard Doyle with respect to his online publication on Facebook. The complaint indicated, among other things, that confidential information regarding clients was published, and that defamatory statements were made regarding people of the Muslim faith, people who did not appear to be Caucasian, people who are non-cisgender, and people who reside in the United States who are not documented with legal status.

A meeting took place on November 28, 2017 with Attorney Doyle. Nicole Dussault, Executive Director of Suffolk Lawyers for Justice, was present at the meeting. The following facts were established:

1. The Facebook publication was created by Attorney Doyle and under his control.
2. All of the posts contained in the complaint were in the Facebook publication.
3. The Facebook publication was not private. It was accessible by an internet search.
4. He has approximately 700 friends connected to the Facebook publication. This includes several actual friends, former clients, and approximately 50 friends he has no knowledge of.

The complaint raised the following concerns:

1. He has an actual or apparent conflict of interest in representing members of these classes of individuals, in violation of the Massachusetts Rules of Professional Conduct and the CPCS Performance Standards. See Mass. R. Prof. C. 1.7 (A concurrent conflict of interest exists if there is a significant risk that the representation of one or more clients will be materially limited by a personal interest of the lawyer.)(Emphasis added.) See also comment [4] to Rule 1.7 (Loyalty to a client is ... impaired when a lawyer cannot consider, recommend or carry out an appropriate course of action for the client because of the lawyer's other responsibilities or interests) and Commonwealth v. Shraiar, 397 Mass. 16, 20(1986) (An actual or genuine conflict of interest arises where the independent professional judgment of trial counsel is impaired, either by his own interests, or by the interests of another client.). See also CPCS Performance Guideline Chapter IV: Part 1: General Principles of Representation. A: Role of Defense Counsel Counsel must know and adhere to all applicable ethical opinions and standards and comply with the rules of the court.

a. Actual conflict

1. People of the Muslim faith TRUE

When presented the information regarding the posts regarding statements that were made regarding people of the Muslim faith, Attorney Doyle indicated that he had a friend die in 9-11. He also indicated that many of the people on his Facebook publication were childhood friends and that this was meant to be humorous. While I credit this statement, the fact that his posts were designed to induce conversation and demean people of the Muslim faith in a public forum, cannot be reconciled with his duty of loyalty to his clients.

The following posts (summaries) were provided:

- i. Shared post of back end of very large pig with testicles hanging out Dear Muslims Kiss our big bacon balls
- ii. Shared post with quote from a Canadian Hockey Announcer If hooking up one raghead terrorist prisoner's testicles to a car battery to get the truth out of the lying little camel shagger will save just one Canadian life ..
- iii. Shared post You tell those goat fuckers with the laundry on their heads that its wash day and were bringing the fucking Maytag!
- iv. Facebook post Allah be praised. Go meet your 72 fat, smelly virgins, asshole. And

**Appendix 110**

the shared picture says When goat fuckers use mortar hahaha

v. Shared post: In Islam, you have to die for Allah. The God I worship died for me.

vi. Shared post Lets not jump to conclu.aaaaaand its Muslims

vii. Shared post: When liberals aren't busy bashing peaceful Christians, they're making excuses for Muslims cutting people's heads off

Therefore, given his statements and the posts detailed above, with respect to representing people of the Muslim faith, an actual conflict exists.

## 2. People who do not appear to be Caucasian TRUE

When asked about this issue, Attorney Doyle indicated that he did not feel like he in any way discriminated against non-white people.

The following post (summaries) were provided.

i. Shared post Colin Kaepernick the Waterboy depicting Colin Kaepernick as a waterboy.

ii. Shared post: 5 minutes after Trump legalizes weed in all 50 states [photos show African American men in Trump shirts and hats]

iii. Shared post depicts two photographs. Top photo: Don't glorify shooting people [photo of young African American men posing with guns].

Bottom photo Then cry like a bitch when someone you love gets shot. [photo of distraught African Americans apparently after a death]

Given these three additional posts, coupled with the posts of other non-Caucasian individuals detailed in the discussion regarding people of the Muslim faith above, I find this to be true. While the complaint delineated these posts into two subgroups, I find a pervasive pattern of posts that depict non-Caucasian people in a derogatory and demeaning way. The totality of these posts create an actual conflict.

## 3. People who reside in the United States who are not documented with legal status TRUE

Attorney Doyle indicated during our meeting that he aggressively represented people who reside in the United States who are not documented with legal status.

The following post (summaries) were provided:

i. Above a shared photo that states What if Illegals Left? Attorney Doyle wrote with a boot in each ass out the door. In comment section someone wrote: You could fit at least twenty in your big Caddy for a drive to the border. Attorney Doyle responded: I'd give em the Jimmy Hoffa treatment.

ii. Shared post: Our Ancestors came to the country legally, adopted its culture, didn't spit on country's traditions, didn't cost a dime to the federal government.

This situation differs from the previous situations, because not only were there two posts but there were statements made by Attorney Doyle in the Facebook publication. (See above) Given that these statements are made regarding people who reside in the United States who are not documented with legal status, coupled with the posts, a conflict exists.

## 4. People who are non-cisgender Inconclusive

Attorney Doyle indicated that he does not discriminate against non-cisgender people and that he has homosexual friends.

The following post (summaries) were provided:

i. Shared post: If you belong in this bathroom [photo of men's bathroom sign] and you follow my daughter or my wife into this bathroom [photo of women's bathroom sign] you're gonna need this bathroom [photo of handicapped sign]

ii. Shared post: This is what bravery looks like [picture of soldiers in battle], not a man wearing a dress.

Unlike the multiple posts detailed above I am unable to conclude whether an actual conflict exists. There are two posts, and neither have comments. However, see the

discussion below regarding an apparent conflict.

b. Apparent conflict. TRUE

It seems clear that in this situation if an actual conflict exists, an apparent conflict does as well. Therefore for each of the true findings discussed above, an apparent conflict exists as well.

An apparent conflict also exists with respect to people who are non Cisgender because of the publications detailed above.

2. He has a duty to refrain from representing clients in these classes due to his personal beliefs about them, which duty is inconsistent with the duty day assignment system. CPCS Performance Guideline Chapter IV: Part 1: General Principles of Representation. C: General Duties of Defense Counsel. Counsel's primary and most fundamental responsibility is to promote and protect the client's interest. This includes honoring the attorney/client privilege, respecting the client at all times, and keeping the client informed of the progress of the case. If personal reactions make it impossible for counsel to fulfill the duty of zealous representation, he or she has a duty to refrain from representing the client.(Emphasis added)

Given the discussions above this is TRUE.

3. He has failed to respect the client at all times CPCS Performance Guideline Chapter IV: Part 1: General Principles of Representation C. General Duties of Defense Counsel, quoted above in part (2).

Given the discussions above this is TRUE.

4. Violation of Mass. R. Prof. C. 1.6

During the course of this investigation an additional violation was found.

Mass. R. Prof. C. 1.6 states in relevant part: (a) A lawyer shall not reveal confidential information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).

The following confidential communications were posted on the Facebook publication:

a. In a comment to his post about winning a gun trial, Attorney Doyle wrote: It was someone else's shotgun. Client not a bad guy. Someone commented: Don't worry he'll be retaining you again soon. Job security. Attorney Doyle responded:

Absofuckinglutely right, Chief? Job security in the Roxbury district court

The statement it was someone else's shotgun is a statement from the client. Even if this exists in the record, it is still covered under the rule.

b. In comment to a post about a not guilty at trial, Attorney Doyle wrote: I went to the dark side. A comment then asked about his client and Attorney Doyle responded: He wanted his cell phones (with business contacts no doubt) and his baseball hats back. I told him to go home and Jerry off. Jerk off that is.

In this statement Attorney Doyle published a legal request that his client made. This is a direct violation of the rule.

c. Yesterday a 21 y.o. punk client told me: I don't like your attitude, Doyle. And in the comments section Attorney Doyle wrote I told him to come back with a new lawyer or a toothbrush and Soap on a rope for a going away present.

In this statement Attorney Doyle published a conversation that his client had with him. This is a direct violation of the rule.

In all three of these situations confidential information and communication is being published. Given the nature and dates of the statements, discovering the identity of the clients would be easily achieved. However, even if this were difficult, the rule still safeguards keeping this information confidential. Just because a fact resides in a public record, court file, or trial record, does not provide justification for revealing that fact in public. In two of the situations outlined above, it appears that the only reason for

revealing the information was to demean the client and gander attention for himself. Attorney Doyle had a duty to maintain confidentiality in all of these situations, and by publishing this information, he violated the rule.

During the afternoon of 11/29/17 I again spoke with Attorney Doyle. He indicated that he was remorseful, and that he never intended for any clients to be hurt or offended. He also indicated that he had removed the Facebook publication from the internet. The complaint was shared with Attorney Doyle by EMAIL on November 30, 2017, and he was given an opportunity to respond. On December 5, 2017, he provided the following response:

I have deleted my Facebook account. In accepting and sharing certain posts, it was never my intention to express open bigotry or sexism. I mistakenly thought I was conversing with friends, none of whom expressed their dislike of the content of what I did. Frankly, I thought this was protected, free speech, pursuant to rights guaranteed to me by the United States Constitution. Also, in discussing some cases (mostly post-verdict matters) with these friends, I NEVER named the client or divulged privileged information. In fact, it is something a number of my colleagues on Facebook have done, without any negative impact or results. Violating the Attorney-Client privilege is something I never have and never will do. In contemplation of the behavior attributed to me, I have nothing but remorse and regret.

The bulk of my commentary was directed at Muslim terrorists, not Muslims in general. My commentary on Colin Kaepernick had nothing to do with his race and everything about his disrespect for our National Anthem. I do not discriminate against any class of people. If I were that type of person, I wouldn't have spent the last 28 years of my life in the Roxbury District Court.

I have offered my resignation to both the Suffolk and Middlesex County programs. The matter is now beyond my control. Obviously, I would prefer a suspension with diversity / sensitivity training to the acceptance of my proffered resignation.

Obviously, if that is not an option, I will suffer the consequences.

Thank you for your consideration of my response. Kindly convey it to those whom will decide my fate.



# The Commonwealth of Massachusetts

Committee for Public Counsel Services

44 Bromfield Street, Boston, MA 02108-4909

TEL: (617) 482-6212  
FAX: (617) 988-8493

ANTHONY J. BENEDETTI  
CHIEF COUNSEL

NANCY T. BENNETT  
DEPUTY CHIEF COUNSEL  
PRIVATE COUNSEL DIVISION

December 22, 2017

Dear Attorney Doyle,

I am writing to you regarding the impact on your CPCS criminal case assignments of the recent "true" finding on a complaint investigated by Supervising Attorney [REDACTED]. This complaint investigation, which you were provided a copy of, found that you revealed confidential information about clients and that you have a conflict of interest with respect to representation of significant sections of the client population.

In speaking to Attorney Wendy Kaplan, who serves on SLJ's investigation subcommittee, I understand that there was a hearing on December 18, and that the subcommittee will be making a decision in January about what action SLJ will be taking. In light of the true finding, and pending decisions by SLJ, MDA, and CPCS about what action will be taken on the true finding, you are suspended from eligibility for new criminal case assignments through CPCS pursuant to the CPCS Complaint Procedures section III.B (attached).

Because the complaint investigation found a conflict of interest, you have an obligation to disclose this fact to any criminal defendant you are currently representing. There are serious post-conviction consequences to the client if such disclosure is not made. *Mickens v. Taylor*, 535 U.S. 162 (2002). Your clients should be informed, using the enclosed waiver form, that their cases can be reassigned promptly to other qualified counsel. If any clients elect, after full disclosure and execution of the waiver form, to continue with you as their counsel, then that is appropriate.

Finally, I wanted to let you know that after consultation with the BBO, we will be reporting these complaint findings to them shortly. If you have any questions, please feel free to give me a call.

Sincerely yours,

A handwritten signature in cursive script that reads "Carol Beck".

Carol Beck  
Director, Criminal Trial Support Unit

**Enclosures**

**Cc: SLJ, MDA, Nancy O'Leary, Beverly Chorbajian, [REDACTED]**

**CB/kt**

## COMPLAINTS REGARDING THE PERFORMANCE AND CONDUCT OF ASSIGNED ATTORNEYS

### I. PREAMBLE

Section 10 of G.L. c. 211D provides that the Committee for Public Counsel Services (“Committee”) shall “monitor and evaluate compliance with the standards and the performance of counsel in its divisions in order to insure competent representation of defendants in all courts of the commonwealth.” Section 10 also provides that the Committee “shall establish a procedure for the review and disposition of client complaints.” In accordance with these mandates, the Committee has established the following procedures for the investigation and disposition of complaints or other allegations regarding inadequate attorney representation, attorney misconduct, or an attorney’s noncompliance with Committee performance standards, guidelines, policies, and other requirements.

### II. SCOPE

These procedures apply to a private attorney who is certified to accept assignments under G.L. c. 211D and who is the subject of any of the following:

- A. A complaint that the attorney has failed to provide competent representation to a client to whom he or she is or was assigned.
- B. An allegation that the attorney has engaged in misconduct.
- C. An allegation that the attorney is unable to or has failed to comply with performance standards, guidelines, policies, or other requirements that are contained in the Assigned Counsel Manual or are otherwise promulgated by the Committee, provided that the allegation relates to the attorney’s representation of or relationship with one or more of his or her Committee clients.

(All such complaints and allegations shall hereafter be referred to collectively as “complaints.”) These procedures are not available to an attorney who is not fully certified, or whose certification is provisional, probationary, or temporary.

Notwithstanding these procedures, service on all panels is at the discretion of the Chief Counsel.

### III. INVESTIGATION PROCEDURE

#### A. Complaint Investigations

The Committee staff shall consider any complaint, regardless of the manner in which or the person (including Committee staff) by whom it is submitted. Complaints shall be investigated to the extent and in the manner deemed appropriate by the Chief Counsel or his or her designee.

Subject to staff availability, complaints alleging that an attorney is rendered unable to provide proper client representation due to illness, physical or mental, or substance abuse, or is charged with a crime or is subject to a decision by the Board of Bar Overseers to impose discipline, will be investigated within 15 days, with investigation beginning on the same day as the complaint, except for extension for good cause.

Complaints alleging neglect by failure to communicate with the client will be investigated within 15 days, except for extension for good cause.

All other complaints will be investigated within 30 days, except for extension for good cause. Extensions may be allowed by the Deputy Chief Counsel or Director of Mental Health Litigation.

Notice shall be provided promptly to any attorney subject to a complaint if it is determined that investigation requires consultation with a third party outside CPCS.

If a complaint is not investigated by Committee staff or a designee within the time periods specified above, this shall not affect the Committee's ability to take action on the complaint. However, the attorney may argue that he has been prejudiced in his ability to defend against the allegations by the delay.

B. Interim Remedial Measures

If, at any time, the Chief Counsel or his or her designee determines that interim remedial measures are warranted to ensure that clients are adequately represented, he or she may take any action under subsection D on a temporary basis pending final resolution of the complaint.

C. Attorney Cooperation

The subject attorney shall cooperate fully with requests and inquiries from the Chief Counsel or his or her designee regarding the investigation.

1. If the attorney fails to respond to the complaint, the Chief Counsel or his or her designee may treat such non-response as a voluntary resignation from any panel of which the attorney is a member.
2. If the attorney fails to cooperate fully with the investigation, the Chief Counsel or his or her designee may take any action under subsection D.

D. Complaint Dispositions

Following the complaint investigation, the Chief Counsel or his or her designee may do any of the following:

1. Conclude that no further action is warranted, in which case the matter shall be closed and shall remain confidential.
2. Require remedial action, including but not limited to requiring the attorney to work with a mentor, requiring the attorney to attend continuing legal education programs, or limiting the attorney's caseload or the types of cases to which the attorney can be assigned.
3. Suspend the attorney for a term or remove the attorney from one or more panels, while permitting the attorney to retain some or all of his or her current cases.
4. Suspend the attorney for a term or remove the attorney from one or more panels and reassign some or all of the attorney's cases to other counsel.

The Chief Counsel or his or her designee may not finally dispose of a matter under paragraphs 2, 3, or 4 without first providing the attorney the opportunity to respond to the complaint and notice, under subsection E, of the proposed disposition. This requirement does not apply to interim remedial measures under subsection B.

E. Notice

1. Within two business days after any decision under subsection C1, the Chief Counsel or his or her designee shall notify the attorney of the decision and the basis for the decision.
2. Within 14 days after the any decision under subsection D2, the Chief Counsel or his or her designee shall notify the attorney of the decision and the basis for the decision.
3. Within two business days after any decision under subsection D3 or D4, the Chief Counsel or his or her designee shall notify the attorney of the decision and the basis for the decision. If the decision is one that may be reviewed under subsection F2, the notice shall also include a copy of these procedures.
4. Any notice required under this subsection shall be by certified mail and e-mail.

F. Scope of Review

1. A decision under subsection C1, C2, or D2 is final and is not subject to review.
2. Except for suspensions or removals under subsection C2, an attorney who is the subject of a suspension or removal under subsection D3 or D4 may request that the suspension or removal be reviewed by the Training and Qualifications Subcommittee (“Subcommittee”) under section IV.

IV. SUBCOMMITTEE REVIEW

A. Review Process

The following procedures govern matters subject to review under section III, subsection F2:

1. In order to obtain a review of a decision, the attorney must send a letter (“Review Request”) to the Chief Counsel requesting that the Subcommittee review the decision. The Review Request must be sent by certified mail and be postmarked within 20 days after the date of mailing of the notice under section III, subsection E3.
2. Within 20 days after receiving the Review Request, the Chief Counsel or his or her designee shall e-mail the attorney a written summary of the investigation (“Investigation Report”). The Investigation Report shall include the information that formed the basis of the decision under section III, subsection D3 or D4, including any documentary information.
3. Within 20 days after the date on which the Investigation Report is e-mailed, the attorney shall provide the Chief Counsel or his or her designee a written response (“Attorney Response”) to the Investigation Report. The Attorney Response must state the bases for the attorney’s disagreement with the findings and recommendations of the Investigation Report. The Attorney Response may include any relevant documents. The attorney’s failure to provide a timely Attorney Response shall result in dismissal of the attorney’s Review Request.
4. The Chief Counsel or his or her designee may prepare a Supplemental Report to address issues raised in the Attorney Response. This Supplemental Report shall be e-mailed to the attorney at least ten days before the matter is considered by the Subcommittee.
5. All matters shall be decided by the Subcommittee on the papers described

in this section, unless the Chairperson of the Subcommittee determines that a hearing is warranted. If the Chairperson of the Subcommittee determines that a hearing is warranted, the Chairperson shall notify the Chief Counsel or his or her designee, who shall, after consultation with the attorney and the members of the Subcommittee, schedule a date for hearing.

B. Subcommittee Hearing

1. The attorney may be represented by counsel at a hearing before the Subcommittee.
2. Upon request by the Subcommittee, the Chief Counsel or his or her designee shall orally summarize the complaint and the results of the investigation and state the decision made under section III, subsection D3 or D4.
3. The attorney shall limit his or her oral response to the issues raised in the documents submitted under subsection A.
4. The Chief Counsel or his or her designee shall limit his or her rebuttal to the issues addressed by the attorney in his or her oral response.
5. The attorney and the Chief Counsel or his or her designee, at the discretion of the Subcommittee, may present witnesses whose testimony is relevant to the issues raised in the documents submitted under subsection A. The Subcommittee may exclude any witness or proffer if the testimony would be irrelevant or duplicative. The parties may provide affidavits from witnesses in lieu of live testimony, but only if the affidavits have been submitted to the Subcommittee and the opposing party at least ten days before the hearing.

C. Subcommittee Decision

1. Any decision by the Subcommittee must be made by a majority of the members considering the matter. The Subcommittee shall decide the matter within 20 days after receiving the papers or, if a hearing is held, within 20 days after the hearing.
2. The standard of review to be applied by the Subcommittee to actions of the Chief Counsel or his or her designee shall be whether the action has a reasonable basis. The Subcommittee's decision shall be final.
3. The Subcommittee's decision shall be in writing and provided to the attorney and the Chief Counsel.

### **Choice of Counsel**

- 1) I, Attorney { }, am informing you of the following:
  - a. CPCS (the public defenders' office) recently investigated a complaint against me and found it true;
  - b. This complaint found that I have a bias against people of the Muslim faith, people who do not appear to be Caucasian (white), and undocumented people who live in the United States.
  - c. The complaint found that I have an actual conflict and should not ethically represent people in these groups.
- 2) I am contesting these findings.
- 3) If you want to have a different attorney assigned to represent you in this case, you are entitled to have such other counsel assigned to represent you at no cost to you. You will not be penalized in any way if you choose to have other counsel represent you on this case.
- 4) Please fill out the form below indicating whether you wish for me to continue to represent you on this case, or whether you would like your case reassigned to a different attorney, and return it by mail to:

For Middlesex County clients: Attorney Beverly Chorbajian, CPCS, 44 Bromfield Street, Boston, MA 02108, or telephone 617-910-5775

For Suffolk County clients: Attorney Nancy O'Leary, CPCS, 44 Bromfield Street, Boston, MA 02108, or telephone 617-910-5793

### **Defendant's Choice Regarding Counsel**

I have carefully considered the above advisements, and I:

\_\_\_\_\_ want my case reassigned to a different attorney

\_\_\_\_\_ want to have Attorney { } continue to represent me in this case

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Choice of Counsel

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RICHARD DOYLE

1) I, Attorney A, am informing you of the following:

- a. CPCS (the public defenders' office) recently investigated a complaint against me and found it true;
- b. This complaint found that I have a bias against people of the Muslim faith, people who do not appear to be Caucasian (white), and undocumented people who live in the United States.
- c. The complaint found that I have an actual conflict and should not ethically represent people in these groups.

2) I am contesting these findings.

3) If you want to have a different attorney assigned to represent you in this case, you are entitled to have such other counsel assigned to represent you at no cost to you. You will not be penalized in any way if you choose to have other counsel represent you on this case.

4) Please fill out the form below indicating whether you wish for me to continue to represent you on this case, or whether you would like your case reassigned to a different attorney, and return it by mail to:

For Middlesex County clients: Attorney Beverly Chorbajian, CPCS, 44 Bromfield Street, Boston, MA 02108, or telephone 617-910-5775

For Suffolk County clients: Attorney Nancy O'Leary, CPCS, 44 Bromfield Street, Boston, MA 02108, or telephone 617-910-5793

Defendant's Choice Regarding Counsel

I have carefully considered the above advisements, and I:

\_\_\_\_\_ want my case reassigned to a different attorney  
X \_\_\_\_\_ RICHARD DOYLE  
\_\_\_\_\_ want to have Attorney A continue to represent me in this case

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: 12/27/17



# The Commonwealth of Massachusetts

## Committee for Public Counsel Services

44 Bromfield Street, Boston, MA 02108-4909

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FAX: (617) 988-8493

ANTHONY J. BENEDETTI  
CHIEF COUNSEL

NANCY T. BENNETT  
DEPUTY CHIEF COUNSEL  
PRIVATE COUNSEL DIVISION

February 22, 2018

Attorney Richard Doyle  
875 Massachusetts Ave. Suite 32  
Cambridge, MA 02139

Dear Attorney Doyle,

I am writing to inform you of the action CPCS is taking based on the outcome of an investigation into a complaint against you. As you know, the complaint related to a series of posts that you made to your Facebook page; it was investigated by Supervising Attorney [REDACTED]. Attorney [REDACTED] found that you revealed confidential information about clients and that you have a conflict of interest with respect to representation of significant sections of the client population. On December 22, 2017, we sent you a letter temporarily suspending you from further assigned cases from the CPCS District and Superior Court Panels, until the findings could be reviewed and a decision made as to what action would be taken. I have attached a copy of Attorney [REDACTED]'s findings for your reference.

Based on these findings, our office is taking the following actions:

1. We are suspending you from criminal case assignments for no less than 1 year, retroactive to the date of our original notice of temporary suspension (December 22, 2017). This action is taken pursuant to CPCS Complaint Procedures, a copy of which is enclosed.
2. In addition, we are requiring you to complete an ethics course and a cultural competency course approved by CPCS.

At the end of the one year period, you may apply for reinstatement to CPCS criminal panels by submitting a request in writing to CPCS General Counsel Lisa Hewitt.

Finally, if you wish to request that this suspension be reviewed by the CPCS Training and Qualifications Subcommittee, please note that the review procedures require that you send a letter to the CPCS Chief Counsel by certified mail within 20 days of the date of this letter.

Sincerely yours,

Carol Beck  
Director of Criminal Trial Support  
CPCS Private Counsel Division

Enclosure

cc: Nancy Bennett, Deputy Chief Counsel, Private Counsel Division  
Middlesex Defense Attorneys, Inc.  
Suffolk Lawyers for Justice  
Nancy O'Leary, Esq., Senior Staff Counsel  
Beverly Chorbajian, Esq., Senior Staff Counsel



**Committee for Public Counsel Services**

75 Federal Street, 6<sup>th</sup> Floor, Boston, MA 02110

Tel: (617) 482-6212 – Fax: (617) 988-8493

**ANTHONY J. BENEDETTI**  
CHIEF COUNSEL

**LISA M. HEWITT**  
GENERAL COUNSEL

I, Lisa M. Hewitt, state the following is true to the best of my knowledge, information, and belief:

- 1) Attorney Richard Doyle had been assigned 6,759 clients by the Committee for Public Counsel Services. This total includes bail-only appointments, initial probation surrender hearings, and other cases which may have been subsequently assigned to a different attorney.

Signed: \_\_\_\_\_

Lisa M. Hewitt  
General Counsel

Date: March 3, 2022

Dear Members of the Judiciary and the Bar:

The events of the last few months have reminded us of what African-Americans know all too well: that too often, by too many, Black lives are not treated with the dignity and respect accorded to white lives. As judges and as lawyers, we are both saddened and angry at the confluence of recent events that have revealed how much more we need to do to create a just, fair, and peaceful society.

But we must do more than express our feelings of sadness and anger. As judges, we must look afresh at what we are doing, or failing to do, to root out any conscious and unconscious bias in our courtrooms; to ensure that the justice provided to African-Americans is the same that is provided to white Americans; to create in our courtrooms, our corner of the world, a place where all are truly equal.

As lawyers, we must also look at what we are doing, or failing to do, to provide legal assistance to those who cannot afford it; to diminish the economic and environmental inequalities arising from race; and to ensure that our law offices not only hire attorneys of color but also truly welcome them into the legal community.

And as members of the legal community, we need to reexamine why, too often, our criminal justice system fails to treat African-Americans the same as white Americans, and recommit ourselves to the systemic change needed to make equality under the law an enduring reality for all. This must be a time not just of reflection but of action.

There is nothing easy about any of this. It will be uncomfortable: difficult conversations, challenging introspection, hard decisions. We must recognize and address our own biases, conscious and unconscious. We must recognize and condemn racism when we see it in our daily lives.

We must recognize and confront the inequity and injustice that is the legacy of slavery, of Jim Crow, and of the disproportionate incarceration of African-Americans, and challenge the untruths and

unfair stereotypes about African-Americans that have been used to justify or rationalize their repression. And we must examine the underlying reasons why African-Americans have suffered disproportionately from the COVID-19 pandemic, both in terms of the number of deaths and the extent of economic hardship it has caused, and, where possible, address the causes of those disparities.

Perhaps most importantly, it is a time for solidarity and fellowship with African-American judges and attorneys, to acknowledge their pain, to hear about the conversations they now have with their children, and to stand together when others may try to divide us. As Dr. Martin Luther King, Jr. wrote from a Birmingham jail:

*“Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly, affects all indirectly.”*

Sincerely,

Ralph D. Gants, Chief Justice

Frank M. Gaziano, Associate Justice

Kimberly S. Budd, Associate Justice

Scott L. Kafker, Associate Justice

Barbara A. Lenk, Associate Justice

David A. Lowy, Associate Justice

Elsbeth B. Cypher, Associate Justice